THE DUTY and OFFICE OF High Constables Of Hundreds, Petty Constables, Tythingmen, And such inferiour Ministers of the Peace.

WITH

The several Duties and Offices of Churchwardens, Overseers and Collectors for the Poor, of Surveyors for Amending the High Ways, and Distributors of the Provision for the Destruction of Noisom Fowl and Vermin.

First collected by Will. Lambard, *in the Reign of* Q. Elizabeth; *and now enlarged with many useful Additions according to the succeeding Statutes, until this time* 1677.

By W. BROWN, A Clerk of the Court of Common Pleas.

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READERS.

THe Foundation of this little Structure was first laid by Mr. Lambard a long while since, in the Year 1579, and first made publick in 1581, and afterwards revised, and the Second Edition published in the year 1587: but in so long time since the succeeding Age growing worse and worse,

--ut crescit in orbe dolus;

our Law-makers have been forced to make Additional Laws for prevention of Offences, and punishment of Offenders: so that the Duties of these inferiour Officers of the Peace have still increased, as several Statutes daily enacted do impose new Duties upon them. So that I have revised this Treatise, with such necessary Additions and Enlargements, as any ways may concern the Offices

ces of Conſtables, Headboroughs, &c. Churchwardens, Overſeers of the Poor, Surveyors of High Ways and Bridges; or as they are enjoyned by any Laws ſince Mr. Lambard, *to obſerve and perform in their ſeveral Offices. And indeed this ſmall Tract will be as uſeful to every perſon, whether Officer or not Officer, as a Pocket Almanack; to him that is in Office, it is a Pilot to ſteer him in his*

right course, whereby he may avoid those Rocks and Sands of Overdoing or Underdoing. Some through neglect in not performing their Duties are culpable by the Superiour Magistrate; and others either ignorantly or wilfully running beyond their Authority, are dashed against the Rock of the Law. Those that are in likelyhood to bear any of these Offices, may by studying this Book

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be perfectly instructed in the performance of their Duty when they come to it. And such as are likely to serve any Office, may herein learn to escape Punishment by fearing to offend. I have set down the High Constables Oath at large, which partly comprehends the whole Duty of his Office; and such Articles as he is to present to the Justices of Peace at their Sessions and monethly Meetings in their

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Diviſions; and likewiſe that Statute which inſtitutes the Office of the Diſtributors of the Proviſion for the deſtruction of Noiſom Fowl and Vermin; that is, what Reward ſhall be given to thoſe that deſtroy them; which ſome vulgarly and erroneouſly talk of, others have affirmed there is no ſuch Law; but they will hereby be convinced of the truth, and inſtructed in the ſubſtance. So that

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I hope this will prove to your Acceptance, which is the Desire of

W. B.

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THE DUTY OF CONSTABLES, &c.

CHAP. I.

Of the Original, Office, and Jurisdiction of High Constables, Petty Constables, Headboroughs, Borsholders, and Tythingmen.

THE *Saxon* Christian King *Alfred* (King of *England*) for the more peaceable Government and Ease of his Subjects, divided this whole Realm of *England* first into Shires, then caused those Shires to be subdivided into Hundreds, Rapes, Ridings, Wapentakes; and divided these also into Tythings, Leets,

or Boroughs, and in all these Divisions were appointed Officers for the better preservation of the Peace, such are High-Constables, Petty-Constables, Headboroughs, Borsholders, and Tythingmen; the Office of all the latter is one and the same, only different in Title, according to the custome of the Country; in *Middlesex*, besides the High Constables of the Hundreds, they have Petty-Constables and Headboroughs in their respective Parishes, and they are in number more or less, according to the greatness or smalness of the Parish; in *Kent* these Petty Officers of the Parishes are called Borsholders; but in *Hampshire* and all the Western parts Tythingmen, and their divisions of Parishes Tythings; in *Sussex* the Hundreds are called Rapes; and in the North, Ridings and Wapentakes.

There was antiently in *England* a great Officer called the High Constable of *England*, and he kept an Office (which is supposed to come hither with *William* the Conqueror out of *Normandy*) or Court, called the Constables Court, or the Court of the High-Constable, wherein he had authority to hear and determine Contracts touching deeds of Armes out of the Realm, and to determine all things concerning War within the

the Realm; as Combats, Blazon, Armory, &c. but not to deal with Battel in appeals, that belonging to the Common Law of the Land.

Amongst the rest of the *Conquerours* Laws this is one, That if a *French-man* do appeal an *English-man* of Perjury or Murder, the *French-man* may defend himself by *Battail*, which in English was then called *Earnest*, which word we yet retain; and the Officer to see this performed was the High-Constable: but this Officer, Court and Practice is long since dissolved.

The Etymologie of this word *Constable* proceeds from the old word **Conning** or **Cyng**, and **Staple** or **Stable**; the word **Conning** or **Cyng** signifies a King, and **Stable**, a Stay or Prop; which is as much as to say, the *stay* or *prop* of the *King*; that great Officer the *Constable* of *England*, having that Title given by reason of the great Authority that he had, was a principal Prop or Say unto the Kings Government; from whence is this Title and Office of this Lower Constableship derived and continued (though with lesser Authority unto this hour) and is a branch of that Original.

By the Statute of *Winchester*, made in the time of King *Edward* the First, these Con-

ſtables of Hundreds were appointed to kee
Watching and Warding, for the bette
keeping of the Peace, and prevention o
Thieveries and Robberies, and apprehen
ſions of Felons and Rogues, &c. and tha
the High Conſtables in every Hundred an
Franchiſe, ſhould take the view of A
mour, &c.

Hereby it appears, that the Name of
Conſtable in an Hundred or Franchiſe is a
Officer to aſſiſt and ſupport the Kings Ma
jeſty in the Maintainance and Preſervatio
of his Peace within his Hundred or Fra
chiſe, and he is called the High Conſtabl
in reſpect of the Conſtables or Petty Conſt
bles, and Headboroughs or Tythingmen
which be in the reſpective Towns, Village
Pariſhes, or Precincts within his Hundre
or Franchiſe under his Juriſdiction; and i
is alſo the part and duty of theſe inferiou
Officers to execute the High Conſtables O
fice in his abſence, in maintaining and keep
ing the Peace in their ſeveral Tythings an
Limits, and in the High Conſtables preſenc
to be aiding and aſſiſting unto him.

The High Conſtables of every Hundred
or Rape, or Riding, are choſen by the Ju
ſtices in each County moſt uſually at thei
General Quarter Seſſions, or in their ſevera

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Divisions. From the Justices they receive their Authority, and are by them again discharged of their Office as they shall see cause. At the entrance into their Office they take an Oath, the usual Form whereof followeth.

The High Constables Oath.

YOU shall swear, That you shall well and truly serve Our Sovereign Lord the King in the Office of a Constable. You shall see and cause His Majesties Peace to be well and truly kept and preserved according to your Power. You shall arrest all such persons as in your sight and presence shall ride or go Armed offensively, or shall commit or make any Riot, Affray, or other Breach of His Majesties Peace. You shall do your best endeavour (upon complaint to you made) to apprehend all Felons, Barretors, and Rioters, or persons Riotously assembled: and if any such Offenders shall make resistance [with force,] *you shall levy Hue and Cry, and shall pursue them untill they be taken. You shall do your best endeavour, that the Watch in and about your Hundred be duly kept, for the apprehending of Rogues, Vagabonds, Nightwalkers, Evesdroppers, Scouts, and other suspected persons,*

and of such as go Armed, and the like; and that Hue and Cry be duly raised and pursued according to the Statute of Winchester, *against Murderers, Thieves, and other Felons; and that the Statutes made for the punishment of Rogues and Vagabonds, and such other idle persons as come within your bounds and limits be duly put in execution: you shall have a watchful eye to such persons as shall maintain or keep any Common house or place, where any unlawful Game is or shall be used; as also to such as shall frequent or use such places, or shall use or exercise any unlawful Games there or elsewhere, contrary to the Statutes. At your Assizes, Sessions of the Peace, or Leet, you shall present all and every the offences done contrary to the Statutes made* 1 Jacobi, 4 Jacobi, & 21 Jacobi Regis, *to restrain the inordinate haunting and tippling in Innes, Alehouses, and other Victualling houses, and for repressing of Drunkenness; you shall there likewise true Presentment make of all Bloudsheddings, Affrays, Outcries, Rescous, and other offences committed or done against the Kings Majesties Peace within your limits: you shall once every year during your Office present at the Quarter Sessions all Popish Recusants within your Liberty, and their Chil-*

Children above 9, and their Servants, (scil. their Monethly Absence from the Church) 3 Jac. 4. *You shall well and duly execute all Precepts and Warrants to you directed, from the Justice of the Peace of this County, or higher Officers; you shall be aiding to your Neighbours against unlawful Purveyances: in time of Hay or Corn-harvest, upon request, you shall cause all persons meet to serve by the day for the Mowing, Reaping, or getting in of Corn or Hay; you shall in Easter week cause your Parishioners to chuse Surveyors for the mending of the High Ways in your Parish or Liberty; and you shall well and duly according to your Knowledge, Power, and Ability, do and execute all other things belonging to the Office of a Constable, so long as you continue in the said Office.*

So help you God.

In this Oath is briefly comprehended the whole Duty of a Constable, and the principal matters of his Office at large.

I shall now set forth every particular branch of the Constables Office, and of the Tythingmen, Headboroughs, Borsholders: their Duties are the same in effect, and their Authority; yet the later are inferiours to the former.

The Form of the Petty Constable or Tythingmans, &c. Oath runs thus.

YOU shall swear, That you shall well and truly execute the Office of a Tythingman of the Tything of H, *(or Headborough, &c.) His Majesties Peace in your own person you shall keep, and see it kept in all others, as much as in you lieth. In the presence of the High Constable you shall be aiding and assisting unto him; and in his absence you shall execute his Office, and do all other things belonging to your Office, according to your Knowledge and Power, untill another be chosen in your room, or you be legally discharged thereof.*

So help you God.

There are in several Counties of this Realm other Officers; that is, by other Titles, but not much inferiour to our Constables; as in *Warwick-shire* a *Thirdborough*, and in other places a *Borough-head*, in others a *Chief-pledge*.

The Authority of these (as I said) is much like that of the Constables: but yet the Office of the Constable is distinct, and of greater Authority and Respect than these.

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Lambert (*pag.* 51. *&c. Duty of Conſtables*) ſaith, That theſe Tythingmen, Borſholders, &c. cannot meddle in a Town or Pariſh where a Conſtable is, becauſe in compariſon of them the Conſtables be Head-officers, and that the Tythingmen, &c. are but Aſſiſtants, where the Conſtable is preſent; but in his abſence they are to perform the ſervice, and that there are many things which a Conſtable may do, wherewith the Tythingman and the reſt cannot meddle at all.

1 *Jac. cap.* 7. *Lambert Off. del Conſt.* 4,6,9. In Towns where there be no Conſtables, and that the onely Officers for the Peace there be Headboroughs, Thirdboroughs, Borſholders, or ſuch others; and in ſuch caſes where their Power and Authority is declared to be equal with the Conſtable; in all ſuch things their Office is all one in a manner: and divers Statutes do appoint Offenders to be puniſhed by the Conſtable or other inferiour Officers, which muſt needs be the Tythingmen, &c.

12 *H.* 7. *f.* 8. The High Conſtables of Hundreds are Conſervators of the Peace within their ſeveral Hundreds and Franchiſes at the Common Law.

Brook Peace 13. *Fitz.* 127. All Petty

Constables by virtue of their office within their several Liberties of their several Towns are Conservators of the Peace at the Common Law.

Crompton, 6. 222. 12 *H.* 7. f. 18. These Petty Constables may do what they can to keep the Peace, and *Ex Officio* they may cause such as in their presence are about to make an Affray, to find Sureties to keep the peace, and that as well before the Affray as after.

3 H. 4. 9, 10. If a man assault another in the Constables presence, or in his presence shall threaten to kill or beat another, or shall be ready to break the peace, the Constables or Tythingmen may in such cases commit the offenders to the Stocks, or other safe custody, and after carry them before a Justice of the peace, or to Gaol, until they find security for the Peace; which Surety the Constables themselves may take to the use of the King.

Term. Trin. 35 El. *r.* 1458. Karret *versus* Haumer. The Plaintiff brought an Action of False imprisonment against the Defendent for arresting and imprisoning him, *&c.* the Defendent pleaded that he was High-Constable of the Hundred of, *&c.* in the County of *S.* and that the Plaintiff made

made an assault in the said Hundred upon one *H. W.* who presently came to the Defendent and told him thereof, and swore he was in fear of his life of the other; whereupon the Defendent came to the Plaintiff and arrested and imprisoned him, untill he had found sufficient security for the Peace; to this the Plaintiff demurred, and it was adjudged that the Defendents Plea was insufficient, 1. because he was not present at the Assault and Affray made; 2. for that he was High Constable of the Hundred, and not Constable of the Town.

Anderson Chief Justice held (in this case) that Constables were Conservators of the Peace at the Common Law, and still are so, and that they ought to preserve the Peace as much as in them lieth; but that was by parting them who he should see breaking of the Peace, and carrying them before a Justice to find Sureties to keep the Peace, but not to take Sureties himself; and if the Constable could take Sureties, what Surety should it be? for he (being no Officer of Record) cannot take Recognizance nor Bail. But *Walmsley*, *Owen*, and *Beaumont*, three other Judges held, that a Constable might take Sureties by an Obligation, according to the Book of 10 *Ed.* 4. and that the Peace was so

ſo preſerved by the Conſtables before Juſtices of Peace were; and that the Statute which ordained Juſtices did not take away the Authority of the Conſtables.

Bacons Uſe of the Law 5, 6. In ancient time High Conſtables of Hundreds and Petty Conſtables in every Town were yearly appointed by the Sheriff in his Turn, and were there ſworn.

Direct. Judges 29. Conſtables lawfully choſen, if they ſhall refuſe to be ſworn, the Juſtices of the Peace may bind them over to the Aſſizes or Seſſions of the Peace, and for ſuch his Contempt he is there to be indicted, fined, and impriſoned.

Coke 8, 43. Every perſon that is choſen to be a Conſtable ought to be *idoneus homo*, a man apt and fit for the Execution of the ſaid Office: and to be *idoneus homo* the Law requireth in him three qualifications, *viz.*

1. *Honeſty:* to execute his Office truly without Malice, Affection, or Partiality.

2. *Knowledge:* to underſtand his Duty what he ought to do.

3. *Ability:* as well in Eſtate as in Body, that ſo he may attend and execute his Office diligently, and not neglect the ſame through want or impoteney.

For ſuch as are choſen out of the meaner ſort,

sort, are either ignorant what to do, or stand in awe of the greater; so that they dare not do what they ought, or else are not able to spare time; therefore they ought to be chosen out of the better sort of Parishioners, and not either by the House, or other Custom.

If a man be chosen Constable, not able and qualified as aforesaid, he may be discharged of his said Office by Law, and another fit man appointed in his place.

Co. 8. 42. If Leets chuse unable or unfit Petty Constables, it is cause of forfeiture of the Leet, and such choice is void.

14 *Car.* 2. *cap.* 12. Two Justices of the Peace may appoint and swear new Constables, Headboroughs, &c. in case of death or removal of such Officers out of the Parish. And if in default of holding Court-Leets they continue above the year, they may be discharged at the Sessions, and others put in.

Idem Stat. Constables, Headboroughs, and Tythingmen, which are out of purse for their Charges, they may with the Churchwardens and Overseers of the Poor, and other Officers of the Parish, make Rates upon all Occupiers of Lands and Inhabitants, and all others chargeable to the Poor, by the Stat. 42 *El.* which being confirmed under the

Hands

Hands and Seals of two Justices of the Peace may by their Warrants be levied by distress and sale of the Goods of such as refuse to pay the same.

CHAP. II.

The Duty of Constables, Headboroughs, &c. in executing of Warrants directed to them from the Justices of the Peace, &c.

THE Constable or other sworn Office to whom any Warrant shall be direct ed and delivered, ought with all speed an secrecy to seek and find out the Party, an then to execute his said Warrant.

Br. Faux Impris. 23. A known swor Officer (be he Sheriff, Undersheriff, Bayli or Constable, &c.) needs not to shew h Warrant to a man when he comes to serve upon him, though he demandeth it; but the Justice will direct his Warrant to h Servant, or to another (who is no sworn Of cer) to serve it, they must shew their Wa rant to the Party if he demand it, or othe wi

wise the party may make resistance, and needs not to obey it.

*Co.*6. 54.& 9. 68. A sworn and known Officer, if he will not shew his Warrant, yet he ought to declare to the party the Contents thereof upon serving it

Co.6. 69. An Officer giveth sufficient notice what he is when he saith to the party, *I Arrest you in the Kings name*, &c. and in such case the party at his peril ought to obey him, though he knoweth him not to be an Officer; and if he have no lawful Warrant, the party grieved may have his Action of False imprisonment against him.

Dyer 244. *Stat.* 43. El. *cap.* 6. If a Constable or other officer do arrest a man for the Peace, or the like, before he hath any Warrant, and then afterwards doth procure a Warrant (or a Warrant cometh after to him) to arrest the party for the same cause, the first arrest was unlawful, and the Officer is lyable to an Action of False Imprisonment.

10 *E*. 4. fol. 12. *Br*. *False Impris*. 38. Where a Warrant is granted against *I. H.* the son of *T. H.* and the Officer thereupon arresteth *I. H.* the son of *W. H.* although in truth he be the same person that offended, and against whom the complaint was made, yet

yet this Arrest is wrongful, and the Officer is subject to an Action of False Imprisonment.

Cromp. 214. a. & 148. *Crooke* 144. 53. If a Constable or any other person hath arrested a man by virtue of his Warrant, which he hath from a Justice of the Peace, and then taketh his word that he will come to him again at another time, to go with him to the Justice according to his Warrant, (and so letteth the Party go) who comes not again at the time appointed, it seems the Officer cannot afterwards arrest or take him again by force of his former Warrant, because this was done by the consent of the Officer: but if the party arrested had escaped (of his own wrong) without the consent of the Officer, the Officer may take him again and again upon fresh suit so often as he escapeth, although he be out of view, or that he fly into another Town or County.

When an Officer hath received a Warrant, he is bound to observe and pursue the effect of his Warrant in every behalf and particular; or otherwise his Warrant will not excuse him of that which he hath done.

21 *H.* 7. 39. If a Constable or other Officer having a lawful Warrant to arrest another, and he shall be resisted or assaulted by

the party, or by any other person, then may that Officer justifie the beating or hurting of such persons, and others (upon his request) may and ought to aid him.

14 *H.*8.16. *Br.Faux Imp.*8. *Lambert* 67, 94.*Co.*10.76.*Cromp.*74. If a Justice of Peace shall issue out any Warrant for a matter wherein he hath Jurisdiction, although it be beyond his Authority, yet it is not disputable by the Constable or other such Officer, but must be obeyed and executed by the Constable or other Officer to whom it is brought. As if a Justice of Peace shall send forth his Warrant to arrest one for the Peace or Good Behaviour without cause, the Officer that serves this Warrant shall not be punished for the executing thereof; but if a Justice of Peace shall make his Warrant to do a thing out of his Jurisdiction, or in a Cause wherein the Justice of Peace is no Judge, if the Officer shall serve such a Warrant, here he is punishable; for the officer is not bound to obey him who is not Judge of the Cause no more than a mere stranger, for the officer is bound to take notice of the Authority and Jurisdiction of the Judge.

But if any Justice sends his Warrant to a Constable or any other officer, to bring him to answer all such matters as shall be ob-

objected againſt him, and doth not ſpecifie the Cauſe in his Warrant wherefore he iſſued forth the ſame, this Warrant is unlawful, and the Officer is liable to an Action of Falſe Impriſonment if he executes it.

So if a Juſtice of Peace ſend a Warrant to take one for Cozenage, to take and bring to a Juſtice or to Gaol, one that another doth ſuſpect for Felony, where the matter is ſmall, or the ſuſpition ſlight, or to licenſe a petty Chapman to ſell from houſe to houſe, to ſend a poor body to a place otherwiſe than the Law directs, ſuch kind of Warrants are not warrantable.

Cook Inſt. part 4. tit. de Frangent. Priſon. All Warrants not ſpecifying the Cauſe are utterly againſt Law.

Except for Treaſon, or Warrants from the Council, Secretaries of State, or Lord Chief Juſtice, theſe need not ſet forth the Cauſe for Reaſons of State.

Cromp. 149. If any man ſhall contemn or abuſe the Juſtice of Peace his Warrant, as by caſting it into the dirt, or treading it under his feet, &c. ſuch Offender may be bound to his Good Behaviour for it, and be indicted and fin'd, it being a contempt againſt the Kings Proceſs.

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CHAP. III.

Articles which the High Constables are to return unto the Justices at their Sessions or Monethly Meetings of their Divisions, and to cause their Petty Constables, Headboroughs, and Tythingmen, in their several Liberties to make Return thereof unto them.

1. THey are to return the Names, Sirnames, Additions of Names and Qualities of all Popish Recusants (as well Housekeepers as Lodgers) dwelling or residing in any of their said Parishes, Liberties, or Precincts.

2. Such persons as shall continue Drinking or Tipling in any Inns or Alehouses at any time, and more especially upon the Lords Day or Holy Days, and such persons as they shall find drunk, and all such Innkeepers and Alehouse-keepers as shall entertain them.

3. *Item* the Names of such as shall prophanely Swear or Curse, with the Number of their Oaths, immediately after the committing

mitting ſuch offence inform the next Juſtice thereof.

4. *Item* they are to return ſuch Victuallers or Alehouſe-keepers as uſe Victualing or ſelling of Beer and Ale without Licenſe.

5. *Item* ſuch perſons as ſuffer any unlawful Games to be ſuffered in their Houſes, Backſides, or Gardens; and alſo the Names of ſuch as ſhall play at any of the ſaid Games.

6. *Item* ſuch perſons as refuſe or neglect to do their duty of Watching and Warding.

7. *Item* ſuch perſons as divide their Houſes into ſeveral Tenements, and ſuch as do entertain Inmates who may be an Annoyance to their neighbours, or likely to bring charge upon the Pariſh.

8. *Item* the defalts of Petty Conſtables and Tythingmen, &c. for not cauſing Rogues, Vagabonds, and Beggars, to be duly apprehended, puniſhed, and paſſed, according to the Statute.

9. *Item* all Maſterleſs Men and Women living at their own hands, ſuch as are idle and will not labour, and can give no good account how they get their Living; all ſuſpicious perſons, Whores, Noctivagants

or

or Night-walkers, and Mothers of Bastards, which may be chargeable to the Parish.

10. *Item* the Names of such persons as refuse to take Apprentices poor Parish-children to Husbandry, and other Callings, according to Law.

11. *Item* all such as neglect to make due Rates and Collections for the Relief of the Poor in every Parish, and that cannot or do not give a just account of the Imployment of the Rent and Stock of the Poor.

12. *Item* of the defects in the High Ways and Bridges, with the Names of such as should repair them, and have neglected or refused to do their duty herein.

13. *Item* such Scavengers as neglect to do their office in cleansing the Streets to be kept clean within their Liberties; and the Names of such persons as commit common Annoyances, by laying of Dung, Soil, Dirt, or Ashes in the Street.

14. *Item* the Names of all such persons as refuse to pave the Streets before their houses, where the said Streets have usually been paved formerly.

15. *Item* the Names of all such persons as keep any Hogs (to the common Annoyance of His Majesties Subjects) in or about such

ſuch Liberties, Places, and Precincts, where Hogs ought not to be kept.

16. *Item* all ſuch Bakers as put light Bread to ſale, and the Weight thereof; and ſuch Brewers as ſell Beer or Ale to unlicenſed Alehouſe-keepers; all Foreſtallers, Regrators, and Ingroſſers, of any Corn, Grain, Butter, Cheeſe, Bacon, or any other kind of dead Victuals whatſoever.

17. Laſtly, all ſuch perſons as can prove or teſtifie any of the ſaid Offences, are to be warned to appear before the ſaid Juſtices at their Seſſions or Meetings aforeſaid, to teſtifie their Knowledge of ſuch Offences of which they can give Information.

CHAP. IV.

The Duty of Conſtables, &c. touching Watching Warding, Rogues, Vagabonds, Hue and Cry, carrying Priſoners to the Gaol, Servants, and Labourers.

13 EDvard. 1. *cap.* 4. *Dalt. cap.* 60. *f.* 140. *Poult. Watch.* 1. A Watch is to be kept in every Town, Pariſh, Village, and Ty-

Tything, every night from *Aſcenſion* till *Michaelmas*, from Sun-ſet to Sun-riſe, which the Conſtables, *&c.* muſt conſtantly cauſe to be ſet, and that by two or four men, according to the greatneſs of the place.

1 *Dalton*, ch. 60. fol. 140. 5 *Ed.* 3. 14. 5 *H.* 7. 5. Theſe Watchmen are to apprehend and examine all ſtrangers that paſs by them in the night, and if they find cauſe of ſuſpition in them, then they may ſecure them till the morning; and if the parties refuſe to obey the Watchmen, they may levy *Hue and Cry* to take them, and upon their reſiſtance the Watchmen may juſtifie the beating of them, and ſet them in the Stocks or Cage till morning; and then if no ſuſpition be found in the parties, they may let them go. But if there be found ſuſpition in them, then the Watchmen may deliver them to the Conſtable, or Tythingmen, *&c.* who is to convey them before a Juſtice of peace, who after Examination of them may bind them over, commit or acquit them as he ſhall ſee cauſe. Theſe Watchmen are alſo to apprehend all ſuch as ride or go armed, and all Rogues, Vagabonds, Noctivagants, Nightwalkers, Eveſdroppers, Scouts, and ſuch like.

Dalt. J. P. *chap.* 60. *fol.* 141. Theſe three

three particulars following have been h
for Law concerning Watches, *viz.*

1. The Watchmen must be men of Bod
well and sufficiently armed, (*not with*
Prong, as the Country fashion is.) And
man is compellable to watch, unless
be an Inhabitant within the same To
or Parish, where he is required
watch.
2. Such as are Inhabitants within the To
are not compellable to watch at
will of the Constable, but onely wh
their turn comes, according to the
and custom of the place; which is m
commonly by Turn or House.
3. *Dalton ibid.* It hath been held by so
That if a man who is compellable
watch, shall contemptuously refuse
watch upon command of the Con
ble, that in such case the Consta
might *ex officio* set the party in
Stocks for his contempt.

But the safest way is for the Constable
present such person for his default at
Assizes or Sessions of the Peace, or else
complain of him to a Justice of the Pea
who may bind the offender to the Good B
havio

haviour, and ſo over to the next Quarter Seſſions, there to anſwer, &c.

2. 39 *Eliz. cap.* 4. *Wingat's Stat. tit. Vagabonds. Reſolu. Judges ſect.* 717. *Bolſtr.* 2 *Part. Rep. fol.* 258. The Conſtable, Tythingman, or Headborough, aſſiſted by the Miniſter and one other of the Pariſh, is to ſee (or do it himſelf) Rogues and Vagabonds, which ſhall be taken begging, ſtripped naked from the middle upwards, and openly whipped till their Body be bloudy, and then forthwith to be ſent away from Pariſh to Pariſh, or Tything to Tything, the next ſtreight way to the place of their Birth; and if that cannot be known, then to the place where they laſt dwelt by the ſpace of one whole year, before ſuch puniſhment; and if that cannot be known, then to the Town through which they laſt paſſed unpuniſhed: and when they come there, if it cannot be diſcovered where they were born, or laſt dwelt, as aforeſaid, then are they by that Conſtable to be conveyed to the Houſe of Correction, or common Gaol of that County, to be imployed in Work, or placed in ſome Service, and ſo to continue by the ſpace of one year; or in caſe they be not able in body, that Town is to keep them, till they may be placed in

ſome Almeſhouſe within the ſame Countie.

Dalton f. 129. After ſuch puniſhment the Vagabond is to have a Teſtimonial under the Hand and Seal of the Conſtable, Tything man, &c. and the Miniſter of the place teſtifying the day and the place of his puniſhment, the place to which he is to be conveyed, and the time limited for his paſſage thither; which time if by his own default he exceeds, he ſhall incur the like puniſhment from time to time, till he arrive at the place limited. The ſubſtance of the Teſtimonial is to be entred by the Miniſter in a Regiſter book, which he is to keep for that purpoſe on pain of 5 *s.*

The Form of a Teſtimonial for conveying a Rogue or Vagabond.

W. W. *a ſturdy vagrant Beggar (aged about forty years) tall of ſtature, red haired and long lean viſaged, and ſquint-eyed, was this* 24*th. day of* A. *in the* 22*th. year of the Reign of Our Gracious Sovereign Lord King* Charles *the Second, &c. openly whipped at* T. *in the County of* G. *according to the Law, for a wandering Rogue; and is aſſigned to paſs forthwith from Pariſh to Pariſh by the Offi-*

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ters thereof the next ſtreight way to W. *in the County of* B. *where he confeſſeth he was born; and he is limited to be at* W. *aforeſaid within twelve days now next enſuing, at his peril. Given under the Hands and Seals of* C. W. *Miniſter of* T. *aforeſaid, and of* J. G. *Conſtable there, the day and year aforeſaid.*

A Juſtice of Peace alone may under his Hand and Seal make ſuch Teſtimonial. *Lambert* 206.

39 *Eliz. cap.* 4. *Dalt. chap.* 47. *fol.* 128. *Reſolu. Judges, ſect.* 13, 14. If any Conſtable, Tythingman, or Headborough be found negligent in the due execution of the Act of the 39th. of *Eliz.* aforeſaid, he forfeits ten Shillings for every default. And ſuch perſons as ſhall hinder the Execution of the Law upon Rogues, forfeit five pounds, and are to be bound to the Good Behaviour. And if a Conſtable refuſe to receive a Rogue, and to convey him or her to the next; or if he do receive him, and not convey him to the next Conſtable, he forfeits five pounds, and may be bound to the Good Behaviour.

1 *Jac. cap.* 7. *Dalt. chap.* 47. *fol.* 128. *Reſolu. Judges, ſect.* 13, 14. Every perſon

shall apprehend or cause to be apprehended such Rogues as he shall see or know to re-sort to his house to beg, or receive any alms, and him or them shall carry, or cause to be carried to the next Constable; or else shall forfeit for every such default ten shillings, and the Constable is to whip and convey such Rogues as before is directed on pain of twenty Shillings.

39 *Eliz.* cap. 4. *Dalt.* ch. 47. fol. 149. 1 *Jac.* ch. 7. Two Justices of peace, (one of the *Quorum*) by Warrant under their hands and seals may cause to be levied, by distress and sale of the Offendors goods, all the fines and forfeitures aforesaid after conviction of the party, which must be either by Confession of the party; or proof of two witnesses before the said Justices.

7 *Jac.* chap. 4. Constables or Tything-men neglecting to search for Rogues upon the Justices Warrant, or to appear at the meeting to give an account what Rogues have been punished, or sent to the House of Correction; or if they neglect to convey such to the House of Correction as by warrant are to be sent thither, they are lyable to such Fine as the Justices please, not exceeding forty Shillings.

1 *Jac.* 7. 14 *Car.* 2. chap. 12. A

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Juſtice of the peace may reward any perſon or perſons who ſhall apprehend, and bring before him any Rogue, Vagabond, or ſturdy Beggar, by granting to ſuch perſon a Warrant under his hand and ſeal, to the Conſtable or Tythingman of the place through which the Rogue did paſs unapprehended; ordering the ſaid Conſtable, *&c.* to give ſuch perſon two ſhillings for every Rogue ſo taken: And if the Conſtable, *&c.* refuſe to pay it, the Juſtices of the peace may proceed againſt ſuch Officers according to the Stat. 1 *Jac.* 7. and compel him to pay his Forfeiture by the ſaid Statute, and to allow the ſaid two ſhillings out of the ſaid Forfeiture to ſuch perſon, with ſuch further allowauce for loſs of time, as the Juſtice ſhall think fit.

14 *Car.* 2. ch. 12. If any perſon ſhall apprehend any Rogue at the confines of any County, which paſſed through any Pariſh of another County un-apprehended, then the perſon ſo apprehending ſuch Rogue muſt carry him to ſome Juſtice of peace of the County through which he paſſed un-apprehended, who (upon a Certificate under the hand of ſome Juſtice of peace of the County where ſuch Rogue was apprehended) is to grant his warrant to the Conſta-

ble, &c. to pay two Shillings, as aforesaid; which if he refuse or neglect, then the Justice is to proceed against the Constable, &c. and cause him to pay ten Shillings to the party, or so much thereof for loss of time as the Justice shall think fit.

14 *Car. 2. cap.* 12. It is Enacted, That whereas Constables, Tythingmen, &c. are at great charges in relieving, carrying with Passes, and conveying Rogues, &c. all Constables, Tythingmen, &c. so out of purse, with the Churchwardens and Overseers of the Poor, and other Inhabitants of the Parish, may make a Rate, and tax all the Inhabitants of the Parish which are chargeable by the 43 of *Eliz.* which Rate must be confirmed under the Hands and Seals of two Justices of the Peace. And if any person refuse to pay his Rate, then the Constable by Warrant from two Justices of Peace, may levy the same upon the Goods of the Party refusing, rendering them the Overplus, if any remain thereof.

39 *Eliz. cap.* 4. & 17. 43 *Eliz. cap.* 2. 1 *Jac. cap.* 7. 21 *Jac. cap.* 28. 7 *Jac. cap.* 4. 5 *Eliz. cap.* 4. *Dalt. cap.* 47. *fol.* 123, 124, 125. All these persons hereafter named are accounted and adjudged Rogues, Vagabonds, and sturdy Beggars: That is to say, all

all such persons above the Age of Seven years, Man or Woman, sole or covert, that wander from their usual place of Abode, abroad, every where begging; or if they do not beg, yet if they wander and loyter about without a lawful Pasport, and give no good account for their Travel, are accounted Rogues.

All Scholars and Seafaring men which beg, Wandring persons that use unlawful Games, subtil Craft or Plays, or pretending themselves to have skill in Physiognomy, Palmistry, or the like; or to be Fortune-tellers or Figure-casters.

All Proctors, Patent-gatherers, (except for Fire) Collectors for Gaols, Prisoners, or Hospitals, wandring abroad; Fencers Bearwards, (those are Rogues in grain) common Players of Interludes, and Fidlers or Minstrels, wandring abroad.

All Juglers, Hocus Pocus, and Slight of hand Artists, Tinkers, Pedlars, and Petty Chapmen and Glass-men, wandring abroad, especially if they be not well known, or have not a sufficient Testimonial; all counterfeit *Egyptians*, not being Felons; all persons delivered out of Gaols, which beg for their Fees, or otherwise do travel begging; such as go to or from the Baths, and do not pursue

their Licenſe, Souldiers and Mariners that beg, and counterfeit a Certificate of their Commanders.

All Labourers which wander abroad out of the Pariſh, and refuſe to work for Wages reaſonably taxed, having no living otherwiſe to maintain themſelves; and ſuch as go with a General Paſport, which is not directed from Pariſh to Pariſh.

All theſe are accounted Rogues, Vagabonds, and ſturdy Beggars.

All Servants that depart out of their Service, (*viz.* out of one City, Town, or Pariſh to another, or out of one Hundred or County to ſerve in another) without a Teſtimonial, or with a falſe one; and ſuch perſons as are ſick of the Plague, and wilfully go abroad in company, againſt the command of Officers, are to be puniſhed as Vagabonds; but none are to be ſent to the place of Birth or laſt Habitation, but wandering Rogues. Thoſe which beg in their own Pariſh, or in High Ways, (without the appointment of the Overſeers) are to be ſent to the Houſe of Correction.

39 *Eliz. cap.* 4. *Dalt.* J. P. *ch.* 47. *fol.* 135. *Reſolu. Judges ſect.* 4, 5. A Wife, and Children under 7 years of age, being vagrant, muſt be placed with the Husband; and if the

the Husband be dead, then with the Wife where ſhe was born or laſt dwelt. And vagrant children above 7 years of age muſt be ſent to the place of their Birth; and if the Vagrant Parents with their children under 7 years of age, be placed at the place of Birth of the Parents, or at the laſt place of dwelling; if afterwards the Parents or either of them die, or run away, yet the Children once ſettled muſt remain there ſtill, and may not be ſent to the place of their Birth, though afterwards they attain to the age of 7 years.

The Wife being but a vagrant Rogue, ought to be ſent to her Husband, though he be but a Servant in another Town or Pariſh. And the Rogue whoſe place or dwelling cannot be known, having Wife or Children under 7 years of age, they muſt go with the Husband to the place where they were laſt ſuffered to paſs through unpuniſhed; where the Children muſt be relieved with the work of their Parents, though their Parents be committed to the Houſe of Correction.

3. *Hue and Cry. Dalton* J. P. *ch.* 28. *fol.* 75. The Conſtables or Tythingmen of every Town, Pariſh, or Village, to whom Hue and Cry ſhall come, ought to ſearch in all ſuſpected Houſes and Places within their

Liberties, and as well the officers as all other persons which shall pursue the Hue and Cry, may take and stay all such persons as in their search and pursuit they shall find to be suspicious, and shall carry them before some Justice of the County where they are taken to be examined, where they were at the time of the Felony committed; and if any default be in the officers, they may be fined by the Justices for their neglect.

27 *Eliz. cap.* 13. *Dalt.* J. P. *chap.* 48. *fol.* 132. Where a Hundred is sued for a Robbery, and Damages are recovered against one or some few Inhabitants of the Hundred, and the rest refuse to contribute thereunto; in such case two Justices of the Peace (one of the *Quorum*) dwelling within or near the Hundred, may for the levying thereof set a Tax upon every Parish within that Hundred; according to which the Constables or Tythingmen of every Parish must tax the particular Inhabitants within their Liberties, and then levy the Money upon such as refuse by Distress and Sale of their Goods, restoring the overplus if any be, and after the Money is gathered, they are to restore the same to the Justices, or some of them that made the Rate, within ten days.

27 *Eliz. cap.* 13. That Hundred where Freſh Suit ſhall ceaſe, ſhall anſwer half the Damages to the Hundred where the Felony was committed, to be recovered in any Court at *Weſtminſter*, in the name of the Clerk of the Peace of the County where the Felony was committed; in which caſe the death or change of the Clerk of the Peace ſhall not abate the Suit. And this Recovery is to be taxed and levied as the former.

Bract. lib. 3. *f.* 121. *Dalt.* J. P. *f.* 133. Where any one of the Robbers is apprehended, or where the Action is proſecuted within one year after the Robbery committed, the Hundred is not chargeable for the Robbery. Obſerve likewiſe, that the Hue and Cry ſhall not be judged legal, unleſs the purſuit be both by horſe and foot.

Weſtm. 1. *ch.* 9. *Co.* 2 *part Inſt. f.* 172. He that goeth not at the command of the Sheriff or Conſtable at the cry of the County, that is, upon Hue and Cry, to arreſt Felons after Attainder, ſhall be grievouſly fined and impriſoned.

4. *Carrying Priſoners to the Gaol.* 3 *Jac. ch.* 10. *Dalt. chap.* 43. *f.* 104. An Offender which is to be conveyed to Gaol, muſt bear all charges both of himſelf and of thoſe that guard him, if he be able; and if he re-

refuse to pay the Charges, or shall not at the time of the Commitment discharge the same, then upon a Warrant from a Justice of Peace the Constable of the Liberty or Town where the Offender hath any Goods (being within the same County) may sell so many of the parties Goods, as in the discretion of the Justice shall be thought sufficient to satisfie the said Charges, the Apprizement to be made by four Inhabitants of the Parish where such Goods be, and the Overplus to be returned to the Owner.

1 *Jac. ch.* 10. And if the Offender have no Goods to defray the Charges, then the Charge must be born by the Town or Parish where the Offender was taken; which must be done by Tax made by the Constable, Churchwardens, and two or three other Inhabitants; and where there are no such Officers, then four of the principal Inhabitants of the Parish must make the Rate, which being allowed under the Hand of a Justice of Peace, every Inhabitant must pay their proportion, according to the said Rate; and if any refuse to pay, the Constable, Tything-man, or other Officer, by Warrant from a Justice of the Peace may levy the same by Distress, and (after Apprizement by four of the Inhabitants) may sell the same, rendring

dring to the party refusing the Overplus, if any be.

And if the Constable or other Officer that makes such Distress be sued, he may plead Justification, and upon a Verdict for the Defendent, or a Nonsuit of the Plaintiff, he shall recover treble Damages, besides Costs of the Suit.

5. *Servants and Labourers.* 5 *Eliz. c.* 14. The Constable in the time of Hay and Corn Harvest, upon request to him made by any man that wants Labourers to get in his Harvest to prevent loss thereof, may cause all such Artificers as he shall see meet to labour, to serve by the day for Mowing, Reaping, or otherwise, for the getting in of Corn or Hay abroad, according as they seem fit and able to perform. And if such persons shall refuse to work, after they are requested thereunto, the Constable may set them in the Stocks by the space of two days and one night; and if the Constable neglect to perform his Office herein, he forfeits forty shillings.

5 *Eliz. ch.* 4. No person reteined in Husbandry, or in any Arts appointed by that Statute, shall depart after the time of such reteiner expired out of the City, Town, or Parish where he last served, to serve in another

other without a Testimonial, (*viz.* in a Town Corporate under the Hands and Seals of the Magistrate and two Housholders there; and in the Country under the Hands and Seals of the Constable (or other officers) and two Housholders of the Town or Parish where he last served; which Testimonial is to be regiſtred by the Minister, for which he is to have two pence, and then to be delivered to the party.

The Form of a Testimonial for a Servant.

MEmorandum, *That* J. S. *Servant to* J. D. *of* Bramsil *in the County of* Southampton *Yeoman, is licensed to depart from his said Master, and is at liberty to serve elsewhere, according to the Statute in that case made and provided. In witness whereof we have hereunto set our Hands and Seals the* 25*th. day of* August, *in the* 22*th. year of the Reign of our Gracious Sovereign Lord King* Charles *the Second,* 1670.

Ri. Turner, *Constable of* Bramsil.
R.C. & J.D. *Housholders there.*

If it be one that lives with a Woman, then say, [*is licensed to depart from his Mistress or Dame*, as she is;] if the Master be not a Yeoman or Husbandman, but an Handy-crafts man, as Taylor, Smith, &c. then name him so in the Testimonial.

5 *Eliz. ch.* 4. *Dalt.* J.P. *ch.* 31. *f.* 63. The Master that retains a Servant without such a Testimonial forfeits 5 *l.* being thereof convicted by Indictment taken in the Sessions of the Peace; and every Servant which sheweth not such a Testimonial to the chief Officer in a Corporation, or to the Constable or other officer, Minister or Churchwarden of the place where he is to dwell, may be imprisoned untill he procure one, and if he produce not one within one and twenty days next after the first day of his Imprisonment, or if he shall shew a false or counterfeit one, then he is to be whipt and used as a Vagabond.

This Statute, as to this particular of Testimonials, is now grown in a manner quite obsolete, so seldom used that it's scarce known: although the Penalty in the same be strict and severe, yet it is of good use; and so are a great many Penal Statutes more very beneficial to the Commonwealth, if they were duly put in execution, especially those

those enacted to punish the daily Offences of Brewers, Bakers, Alehouses; all such as use Weights or Measures, Millers, Forestallers, Ingrossers, Regrators, *cum multis aliis, &c.* These are the Caterpillars of the Kingdom.

CHAP. V.

The Duty of Constables, &c. about Affrays, Riots, Routs, Arms, Militia, Escapes, Forcible Entries, the Peace, Hedge-breakers, Setting Dogs.

1. *Affrays, Riots, Routs.* 3 *H.* 4. 9. & 10. *Bacon's Use of the Law, fol.* 5 *Dalton* J. P. *ch.* 1. *fol.* 4, 5. If one makes an Affray or Assault upon another in a Constables presence, or in his presence shall threaten to kill, beat, or hurt another, or shall be in a fury ready to break the Peace. In these cases the Constable may commit the Offenders to the Stocks, or to some other safe custody for the present, untill such time as he can carry them before some Justice of the Peace, or to the Gaol, untill they find Sure

Sureties for the Peace. The Conſtable may take Security for the Peace by Obligation to be ſealed and delivered to the Kings uſe, which Bond the Conſtable was to ſend to the Exchequer or Chancery, from whence the Proceſs ſhould iſſue to levy the Debt to the Kings uſe if the Peace were broken. This was the Opinion of three of the Judges of the Common Pleas in *Skirret's* Caſe, *Trin.* 35 *Eliz. Com. Banc. rot.* 1458. But *Anderſon* Chief Juſtice ſaid, that the Conſtable ought to carry the party that he ſhould ſee breaking of the Peace before a Juſtice to find Sureties for the Peace, which is the uſual Practice at this day.

Dalt. J.P. *ch.* 8. *fol.* 33. The Conſtable, where he ſeeth an Affray made, or ſuch as are about to make an Affray, ought to command the Affrayers in the Kings Name to ſurceaſe and depart on pain of Impriſonment; and if a Conſtable being preſent at an Affray, doth not his beſt endeavour to part them, it being preſented by the Jury at the Seſſions of the Peace, ſuch Conſtable may be fined for it.

3 *H.* 7. 1. 3 *H.* 7. 20. *Lamb.* 136. 38 *E.* 3. 8. *Dalt.* J.P. *chap.* 8. *fol.* 33. If any one be dangerouſly hurt in an Affray, the Conſtable or any other may ſtay the Offender, and

and carry him to a Juſtice of Peace, who is either to bail him till the next Gaol-delivery, or to commit him to the Gaol untill it be known whether the party will live or die thereof.

Lambert 135. 1 *H.* 7. 7. 3 *H.* 7. 10. If Affrayers will not depart, but do draw Weapons, or give any blow, the Conſtable may command aſſiſtance of others to ceaſe the Affray; and if they make reſiſtance may juſtifie the beating and wounding of them: and if the Conſtable or any of his Aſſiſtants be killed, it is Murder in the Affrayers.

Lambert 135. 7 *E.* 3. 19. Where there is a great and dangerous Affray, the Conſtable may make Proclamation in the Kings Name, that the Affrayers ſhall keep the Peace, and depart. And if the Affray be in a Houſe, the Conſtable may break into the Houſe (if the doors be ſhut) to ſee the Peace kept, though none of the parties have taken any hurt: and if the Affrayers fly into another mans Houſe, the Conſtable upon freſh purſuit may break into ſuch Houſe and apprehend them.

Dalt. chap. 8. *f.* 34. *& chap.* 118. *f.* 340. *Crompt.* 146. *b. &* 172. *b.* Where the Affrayers fly into another County, the Conſtable

ſtable ſeeing it may freſhly purſue, or cauſe them to be purſued and taken there: and then the Conſtable may carry them before ſome Juſtice of the Peace of the County where they are taken, to find Sureties for the Peace.

And if they fly into a Franchiſe only within the ſame County where the Affray was, the Conſtable (ſeeing this) may freſhly purſue them, and take them out thence.

Dalt. J.P. *ch.*8. *f.*34. 38 *H.*8. After the Affray is over, the Conſtable cannot arreſt the Affrayers without a Warrant; except ſome perſon hath received ſuch hurt there, that he is in danger of death. But before the Affray begun, and at the time thereof, he may arreſt them without a Warrant.

Dalton ibid. It is not properly an Affray, unleſs ſome blow be given or offered to be given; for hot words is no Affray, neither can the Conſtable apprehend them for Words, unleſs they threaten to kill, beat, or hurt one another; in ſuch caſe the Conſtable may take ſuch perſons and carry them before a Juſtice to find Sureties for the Peace, and yet ſuch Threatning is no Affray.

*Dalt. chap.*8. *fol.*35. 5 *H.*7.6. If an Affray or an Aſſault be made upon the Conſtable

ſtable himſelf, he may not onely defend himſelf, but may alſo put the parties offending in the Stocks, till ſuch time as he can carry them to a Juſtice of the Peace, or to the Gaol; and if he be not able to arreſt them himſelf, he may call others to his Aſſiſtance, who may juſtifie to arreſt the Offenders.

27 *R.*2.*ch.*8. Sheriffs, Conſtables, and all other the Kings Officers, ſhall ſuppreſs Riots and impriſon them, and all other Offenders againſt the Peace.

Lambert 179, 181. *Bro. tit. Riot.* 4, 5. *Co.* 3 *part Inſtitutes fol.* 176. *Dalton* J.P. *ch.*85. *fol.* 217. Where three perſons or more ſhall come and aſſemble themſelves together, to the intent to do any unlawful act with force or violence againſt the perſon of another, his Poſſeſſions or Goods, as to kill, beat, or otherwiſe to hurt or to impriſon a Man; to pull down a Houſe, Wall, Pale, Hedge, or Ditch; wrongfully to enter upon or into another Mans Poſſeſſion, Houſe, or lands, &c. or wrongfully to cut or take away corn, graſs, wood, or other goods; or to hunt unlawfully in any Park or Warren, or to do any other unlawful act, (with force or violence) againſt the Peace, or to the manifeſt terror of the People; if they onely meet to

ſuch

such a purpose or intent, although they shall after depart of their own accord, without acting any thing, yet this is an unlawful Assembly, because of their intention at first.

And if after such meeting they shall ride, move or go forward, towards the execution of such Act, whether they put their intended purpose in execution or not, this is a Rout. And if they do act any such thing indeed, then it is a Riot.

2. *Armes, Militia.* 2 *E.* 3. ch. 3. 7 *R.* 2. 13. *Co.* 3 part Institutes fol. 162. *Dalt.* J. P. ch. 9. f. 35. & 159. If any person shall ride or go Armed offensively before the Kings Justices, or before any other the Kings officers or ministers during their office, or in Fairs, or Markets, or elsewhere by night or by day, in Affray of the Kings people and breach of the peace; or wear or carry any Guns, Daggers, or Pistols charged: in such case the Constable upon sight hereof may seize and take away their Armour and other Weapons, and cause them to be apprized, and answered to the King as forfeited, and carry the parties before a Justice of peace to find Sureties for the peace.

2 *E.* 3. ch. 3. But the Kings Servants in His Presence, Sheriffs and their Officers, and other the Kings Ministers, and such as be

be in their companies assisting them in their office, and all others pursuing Hue and Cry where any Felony or other offences against the Peace be committed, may lawfully bear Armour or Weapons.

14 *Car.* 2. *chap.* 3. All High Constables, Petty Constables, and other officers within their several Parishes, are to be aiding and assisting to such persons as shall have Warrants from the Lord Lieutenants or any two of their Deputies, under their Hands and Seals, to search for and seize all Arms in the custody and possession of any person or persons whom the said Lieutenants or their Deputies shall judge to be dangerous to the Peace of the Kingdom, and to secure the same, and give account thereof to the said Officers. But such search is to be made in the day time onely, between Sun-rise and Sun set, and not otherwise; unless it be in Cities and their Suburbs, Towns Corporate, and Market Towns, or Houses within the Bills of Mortality; in which places search may be in the night, if the Warrant so direct.

No Dwelling House of any Peer of the Realm is to be searched, unless the Warrant be from the Kings Majesty under his Sign Manual, or in the presence of the Lieutenant

nant, or one of the Deputy Lieutenants of the ſaid County or Riding. And in all places and houſes aforeſaid where ſearch is made, in caſe of reſiſtance to enter with Force: and ſuch Arms ſo ſeized, where the Lieutenants or their Deputies, or any two of them think fit, may be reſtored to the owners again.

14 *Car.* 2. *cap.* 3. & 15 *Car.* 2. *cap.* 4. The Conſtables by Warrant under the Hand and Seal of the Lord Lieutenant, or any three or more of the Deputy Lieutenants, are to levy ſuch Summes, Forfeitures, Penalties, and Payments, as ſhall be charged upon any perſon or perſons within their ſeveral Liberties, for the furniſhing of Arms Horſe or Foot, or Payment of Souldiers.

Ibid. And where ſufficient Diſtreſs cannot be had, then the Lord Lieutenants and their Deputies by like Warrant to the Conſtable may commit ſuch Offender to priſon, untill he ſhall make ſatisfaction according to the ſaid Forfeiture, Payment, or Penalty.

3. *Eſcapes. Dalt.* J. P. *ch.* 106. *f.* 272. *Bro. Coron.* 112, 224, 316, 454. & *Bro. Eſcape* 31. *Stamford fol.* 32. If a Conſtable, or any other Officer, which hath a Priſoner in cuſtody for Felony or ſuſpicion thereof, voluntarily letteth or ſuffereth the Priſoner

to

to go where he will at liberty, (though this be breaking of Priſon) yet it is Felony in the Gaoler, Conſtable, or him that letteth ſuch Priſoner eſcape, but it is no Felony in the Priſoner: but if ſuch a Priſoner ſhall eſcape by the negligence of his Keeper, and againſt his will and knowledge, then it is Felony in the Priſoner, becauſe a Breach of priſon, and the Gaoler or Conſtable, &c. ſhall be fined by the Judges or Juſtices for ſuch Eſcape.

Dalt. cap. 106. *f.* 272. If a Conſtable or other Officer ſhall voluntarily ſuffer a Thief (being in his cuſtody) to go into the water and drown himſelf, this Eſcape is Felony in the Conſtable, and the Thief is *Felo de ſe*. But if the Thief ſhall ſuddenly (without the aſſent of the Conſtable) kill, hang, or drown himſelf, this is then but a negligent Eſcape in the Conſtable, and Finable, as aforeſaid.

Dalt. ibid. The voluntary letting a Felon eſcape before he be arreſted for the Felony is no Felony in him that ſuffereth him to eſcape; but if the Conſtable ſuffer one to eſcape, whom he knows hath committed Felony, is finable, if it do not make him acceſſary.

Crompton 40.44. *Dalton* J. P. chap. 10[illegible]

fo. 275. Where a Felony is committed, and one is arreſted for the ſame, or ſuſpicion thereof, though the Conſtable, *&c.* ſhall after have certain intelligence and knowledge, that the party arreſted is not guilty of the offence; yet they may not ſet the party at liberty, for he muſt not be delivered but by due courſe of Law.

Dalt. J.P. ch. 118. fo. 340. If a Conſtable convey a Felon to the Gaol, and the Gaoler will not receive him, then the Conſtable muſt bring him back to the Town where he was taken, and that Town ſhall be charged with the keeping of him untill the next Gaol-delivery; and in ſuch caſe the Gaoler ſhall be puniſhed by the Juſtices.

Ibid. The Conſtable or other officer that ſhall impriſon any Felon in the ſtocks, may lock the ſtocks, and if need be, may alſo put Irons on the priſoner; and when he conveyeth him to the Gaol, or to the Juſtice, he may pinion him, or otherwiſe make him ſure ſo that he cannot eſcape.

4. *Forcible Entries.* 15 *R.* 2. chap. 2. *Dalt.* ch. 22. f. 57. If a Conſtable, or any other private perſon of the ſame County do refuſe to attend and aſſiſt the Juſtices of the peace, upon requeſt to remove a Force, or to con-

vey the parties to the Gaol, he may be imprisoned for his, neglect, and make Fine to the King.

6. *The Peace.* H. 7. fo. 18. *A. Cromp.* 6. 12. The Constable ought to do what he can to keep the Peace, but he cannot take surety of the peace at the request of any man.

Dalt. ch. 3. 9. The Constable or other officer before he arrest the party upon a warrant for the Peace, ought first to acquaint the party therewith, and charge him in the Kings name to go along with him to the Justice to put in sureties, according to the Warrant; and if the party refuse so to do, then the officer ought forthwith to take and convey him to the Goal, without carrying him to any Justice at all, there to remain till he doth find Sureties; and then at the next Sessions of the peace the Officer ought to deliver in his Warrant, and certifie what he hath done therein.

Dalt. 69. f. 166. If the party yield to go, and find Sureties, then the Officer may not absolutely arrest him, yet he is not bound to go up and down with him till he can get Sureties, but he may keep him till he can get Sureties to come unto him; and if the party make resistance, or offer to go

go away afterwards, the Officer may carry him to the Gaol, or ſet him in the Stocks till he can get aid to carry him to the Gaol.

Lambert 101. *Dalt.* J.P. *ch.*69. *f.* 168. If an Officer having a Warrant from a Juſtice of Peace againſt a man to find Sureties for the Peace, and do afterwards receive a *Superſedeas* out of the Chancery or Kings Bench, or from another Juſtice of Peace of the ſame County to diſcharge the ſame Surety of the Peace; and yet nevertheleſs the Officer will cauſe the party to find Sureties by virtue of the Warrant, the party may refuſe to give it; and if he be arreſted or impriſoned for ſuch refuſal, he may have his Action of Falſe Impriſonment againſt ſuch Officer; for the *Superſedeas* is a Diſcharge of the former Warrant.

13 *H.*7.10. *Dalt.*J.P.*ch.*75. *f.* 189. If a Conſtable be informed, that a Man and Woman be in Adultery or Fornication together, or that a Man and Woman of Evil Report are gone to a Suſpected Houſe together in the night, the Conſtable may take Company with him, and if he find them ſo, he may carry them before a Juſtice of the Peace to find Sureties for their Good Behaviour.

Fitz. Barr. 207. *Cromp.* 135. If any ſhall abuſe a Conſtable in the execution of his office, the Conſtable may have him bound to his good behaviour for it.

Dalt. ch. 3. f. 9. Any injurious force or violence uſed againſt the perſon of another, his goods, lands, or other poſſeſſions, whether it be by threatning words, or furious geſtures, or force of the body, or any other force uſed *in terrorem*, is ſaid to be a breach of the Peace.

6, *Hedge-breakers, Robbers of Orchards*, &c. 43 *Eliz*, ch. 7. Such as are convicted before a Juſtice of the peace, for cutting and taking away of Corn growing, robbing of Orchards, breaking Hedges, and their procurers and receivers knowing the ſame, are to give the party grieved ſuch ſatisfaction as a Juſtice of peace ſhall think fit; and if they cannot give ſuch ſatisfaction, then the Juſtice may commit the offendors to the Conſtable to be whipped for the firſt offence, and the like pain for the ſecond offence: and if the Conſtable or other officer do not by himſelf or ſome other ſee the ſame done accordingly, then the Juſtice may commit ſuch officer to the Gaol, there to remain without Bayl untill he procure the offendor to be whipped as aforeſaid.

15 *Car.*2.ch.2. The Constables, Headboroughs, or other person, in every County, City, Town-corporate, or other place where they shall be officers and inhabitants, have power to apprehend or cause to be apprehended such persons as they suspect, for having, carrying, or conveying any burthen, or bundles, of any kind of Wood, Underwood, Poles, or young Trees, or Bark of any trees, or Gates, Stiles, Posts, Rayls, Pales, Hedgewood, Broom, or Furze; and any Constable or Headborough, &c. by warrant under the hand and seal of one Justice, may enter into the houses, out-houses, yards, gardens, or other places belonging to the houses of such persons as they shall suspect, &c. and where they shall find any, to apprehend the parties suspected for cutting the same, and those in whose custody, &c. any such Wood or Underwood shall be found, and carry them before a Justice of the peace, and if the party cannot give a good account to the Justice how he came by the said Wood, &c. by the consent of the Owner, or shall not, within the time the Justice shall appoint, prove who he bought it of, then such person shall be deemed convicted of the cutting and spoyling of Wood, within the Statute of 43 *Eliz.* and for the first offence shall give such

ſatisfaction to the owner within ſuch t ime as the Juſtice ſnall appoint, and pay over and above preſently to the uſe of the Poor where the offence is committed, ſo much money as the Juſtice ſhall appoint, not exceeding Ten ſhillings: And for default of performance hereof, the Juſtice may commit the offendor to the houſe of Correction ſo long time as he ſhall think fit, not exceeding one Moneth; or otherwiſe to be whipped by the Conſtable or other officer: And for the ſecond offence the Offendor is to be ſent to the houſe of Correction for one Moneth, and there held to hard labour; and if he be convicted the third time, then to be puniſhed as an incorrigible Rogue.

Stat. ibid. If any perſon buy any burthens of Wood, Underwood Sticks, *&c.* of any who may juſtly be ſuſpected to have come by the ſame unlawfully, upon complaint to a Juſtice, Head-officer, *&c.* and if upon examination upon Oath it appears, That the ſame were bought of ſuch perſon as aforeſaid, the Juſtice may order the buyer to pay the treble value thereof to him from whom they were ſtollen; and for non-payment the Juſtice may grant his Warrant to the Conſtable, to levy the ſame by diſtreſs and ſale of the offendors goods, rendring to the owner

the

the Overplus; and for want of ſuch Diſtreſs then to commit the party to the Gaol at his own charge, there to remain one Moneth without Bail.

None is to be puniſhed by this Statute that have been puniſhed by any former Law for the ſame Offence, and all Offenders within this Statute muſt be proſecuted within ſix Weeks after the Offence committed.

Setting Dogs. Stat. 7 *Jac. ch.* 11. *Dalt.* J.P. *ch.* 37. *f.* 90. The Conſtable, Tythingman, or Headborough of any place (upon a Warrant under the Hands and Seals of two or more Juſtices of the Peace) hath power to ſearch the Houſes of any perſons ſuſpected to keep Setting Dogs or Nets for the taking of Pheaſants or Partridges, and the Dogs and Nets there found to take, carry away, detain, kill, deſtroy, and cut in pieces.

Stat. idem. Dalt. ibid. But they cannot ſearch the Houſes of any who have Free Warren, or any Lord of any Manor, or ſuch as have 40 *l. per an.* or more in Freehold, or ſome Eſtate of Inheritance, or 80 *l. per an.* for Life, or be worth in Perſonal Eſtate 400 *l.* Theſe may keep Nets and Dogs to take Pheaſants or Partridges in their own ground.

CHAP. VII.

The Constables Office touching Clothiers, Maulsters, Alehouses, Drunkenness, Weights and Measures, Purveyances, High Ways.

1. *Clothiers.* 14 *Car.* 2. *chap.* 5. Constables and other Officers upon request are to aid and assist the Wardens and Assistants for regulating the Trade of Worsteds, and other Stuffs called *Norwich* Stuffs, made in *Norwich* and the County of *Norwich.*

They ought to be very vigilant in this business, for there never was such slight and unserviceable Stuffs as now are; to the great damage of His Majesties Subjects.

14 *Car.* 2. *ch.* 5. In the West Riding of the County of *York* the Constables are likewise by Warrant from the Justices of the Peace, Master and Wardens of the Corporation, or any thirteen of them, to levy such Fines, Penalties, and Forfeitures, as shall grow due from any Clothier by virtue of the Statute aforesaid, by Distress and Sale of

of the Offenders Goods, rendring the overplus to the Owner upon demand.

4 *E.* 3. *ch.* 1. *Fitz.* J. P. 103. Clothiers muſt pay their Spinners and other Work-folks their Wages in ready Money, and not in Wares; and ſhall deliver their Wooll in due weight, on pain to forfeit 6 *d.* for every default. And the Carders, Spinners, Weavers, and other Work-folks, are to do their Work faithfully on pain to forfeit double damages to the Party grieved.

Stat. idem. The Maſter, or Head-officer in a Corporation where there is no Maſter, and out of a Corporation every Juſtice of Peace, High Conſtable, and Stewards of Court Leets, ſhall hear and determine the Complaints, as well for non-payment of the Work-folks Wages, as the Damages aforeſaid, by examining the Parties; for which Damages they have power to commit the Offenders to the Gaol untill the party grieved be ſatisfied.

39 *Eliz. ch.* 20. The Juſtices of Peace and High Conſtables may ſearch any Houſe or other place for Tenters, Ropes, Rings, Headwrinches, or other Engines for ſtretching of Cloth, and if they find any to deface them; and if the Owner uſe them again, theſe Officers may take them away and

ſell them, and give the Money to the Poor.

Mault-making. 2 *E.* 6. *cap.* 10. 21 *Jac. ch.*28. 3 *Car.* 1. *ch.* 4. The Conſtables and Bailiffs of any Town ought from time to time to view and ſearch all ſuch Mault as ſhall be made or put to ſale within any of their Liberties, and if they find any being evil made, or mingled with evil Mault, then the Conſtable or Bailiff, with advice of one Juſtice of Peace, may ſell the ſame to ſuch perſons at ſuch a rate as the Juſtice think fitting.

Stat. 2 *E.* 6. *ch.* 10. There are three ſorts of evil and deceitful Mault, *viz.*

1. Where Barley and Mault hath not in the making thereof in the Vat, Floor, Steeping and Drying thereof, Three Weeks at the leaſt; except it be in *June*, *July*, and *Auguſt*, and in thoſe Moneths it muſt have 17 Days; and under ſuch time it cannot be made wholeſom.

2. They ought to take out of every Quarter of Mault half a Peck or more of Duſt, by Treading, Rubbing, and Fanning the ſame, before they put the ſame to ſale, or elſe they forfeit 20 Pence for every Quarter otherwiſe ſold, to be divided between the King and the Informer.

3. If

3. If any Mault shall be put to sale not well made, according to the limited time, or made of Mow-burnt or Spired Barley, or mixed good and bad together, they forfeit Two Shillings for every Quarter, to be divided as aforesaid.

This Act extends not to such as make Mault for their own Provision onely: and the Forfeitures aforesaid must be prosecuted within one year.

Alehouses, Drunkenness. 3 *Car.* 1. *ch.* 3. *Dalt.* J.P. *ch.* 7. *fol.* 31, 32. If any one keep an Alehouse, or sell Beer or Ale without License, he forfeits 20 *s.* to the use of the Poor, to be levied by Distress and Sale of the Offenders Goods, by the Constable and Churchwardens by warrant from a Justice of Peace before whom the offence is proved; which Goods are to be sold within three days after the Distress taken, and the Overplus to be returned, if any be: and in default of Distress the Delinquent is to be openly whipped by the Constable. If the Constable refuse or neglect to execute his Warrant, he forfeits 40 *s.* to the Poor; and the Justice may commit the Constable to the Gaol, untill he causeth the Offender to be whipped, or payeth the 40 *s.* to the use of the Poor.

Co. 9. lib. Rep. fol. 87. b. 10 *H.* 7. 8. *Dalt. J. P. ch. 7. f.* 28. If a common Inn-keeper or Alehouse-keeper refuseth to lodge a Traveller, he profering to pay ready Money for his Victuals, &c. the Constable may cause such an Inn-keeper or Alehouse-keeper to be indicted at the Sessions or Assizes, where he may be fined and imprisoned; or the party grieved may have his Action of the Case against the Inn-keeper or Alehouse-keeper. But they are not bound to lodge or find Victuals without ready Money first paid, if it be required.

In the Condition of the Recognizance which every Alehouse-keeper enters into that is licensed to sell drink, it is one Clause, That he shall keep one or more spare Beds for lodging of strangers.

Were this well looked into in and about London, *abundance of forfeited Recognizances would be found; and a great many lazy knaves that live at their ease by selling Drink, might be set to work for their livings.*

They are bound likewise not to suffer any Gaming in their Houses or Backsides, which now is the main prop of most of them; and there they draw in Apprentices and Servants to their ruine: were they punished according to the Statute for this, these

Cases

Caterpillars would not ſwarm ſo thick as they do.

1 *Jac. ch.* 9. 1 *Car.* 1. *ch.* 4. If any Innkeeper, Alehouſe-keeper, or Victualler do ſell leſs than a full Ale Quart of the beſt Ale or Beer, or two Quarts of the Small, for one Penny, he forfeits 20 *s.* for every Offence. If he ſuffers Townſmen or others to ſit tipling in his Houſe, he forfeits 10 *s.* for which the Conſtables and Churchwardens upon a Warrant from a Juſtice of Peace ought to diſtrain and levy the Forfeitures according to the Statute; and if there be no Diſtreſs to be found, or if the Officers neglect within 20 days to certifie the ſame Default to the Juſtices, the Officers forfeit 40 *s.* to the uſe of the Poor, to be levied by Diſtreſs on their Goods by Warrant made to any indifferent perſon, from any one or more Juſtices of the Peace under their Hand and Seal. And for want of Diſtreſs the Juſtice may commit the Offenders to the Gaol, there to remain till they have paid the ſaid Forfeitures. In all theſe caſes the Diſtreſſes are to be kept ſix days, and if the parties do not pay the Forfeitures within that time, then the Diſtreſs is to be appriſed and ſold, and the Overplus returned to the Owners, if any be.

21 *Jac.ch.*7. *Dalt.*J.P. *ch.*7. *f.*28. If the Constable or other Officer of the Parish neglect to serve the Justices Warrant against Townsmen or others, for tipling in any Inn, Alehouse, or Victualling house; or against men for being drunk, *viz.* for tipling 3 *s.* 4 *d.* and for being Drunk 5 *s.* to be levied by Distress on the Offenders Goods and sale thereof after six days default of payment, rendring the Overplus to the Owner. And for want of Distress, or not able to pay, the Tipler is to sit in the Stocks four hours, and the Drunkard six hours. And if in any of these cases the Constable neglect to do his duty, he forfeits 10 *s.* to be levied by Distress and Sale of his Goods to the use of the Poor. These Offences are to be inquired after within six moneths after they are committed, and the Constables and other Officers of the Parish may be charged upon their Oaths to present them.

Weights and Measures. 8 *H.6. ch.*5. All Cities, Boroughs, and Market Towns in *England* ought to keep common Weights and Measures sealed, at which the Inhabitants may weigh freely; and all Foreiners must pay for every Draught under forty Pounds, one Farthing; for a Draught between forty and an hundred, an Halfpenny;

and

and for a Draught between an hundred and a thouſand, one Penny; wherewith the Weights are to be maintained. And the Officers which attend that Service are to be rewarded at the diſcretion of the Inhabitants.

8 *H.6.ch.* 5. 11 *H.* 7. *ch.*4. Every City which wants ſuch Weights and Meaſures forfeits 10 *l.* to the King, every Borough 5 *l.* and every Market Town 40 *s.* And the chief Officers of ſuch places (upon requeſt to them made) are to Mark and Seal ſuch Weights and Meaſures to any of the Kings Subjects, taking for the marking of every Buſhel one Penny. And none ought to ſell with any other Weights and Meaſures, but ſuch as are marked or ſealed.

11 *H.*7.*ch.*4. The Mayors and chief Officers in Cities, &c. are once every year at leaſt to view all Meaſures and Weights in their Juriſdictions, and to break or burn ſuch as they find defective; and to puniſh the Offenders for the firſt Offence ſix Shillings eight pence, for the ſecond thirteen Shillings four pence, and for the third offence twenty ſhillings; and beſides may adjudge the Offenders to the Pillory.

Purveyance. 13 *Car.* 2. *chap.* 8. The Clerk

Clerk or chief Officer of the Kings Carriages, shall three days before His Majesties Arrival, by Warrant from the Green Cloth, give notice in writing to two Justices of the Peace adjoyning to the place where His Majesty is to come, and to provide such a number of Carts and Carriages as the said Officer shall need for that Work; and to express the time and place where the said Carts and Carriages are to attend, and then these Justices are to require the Country to provide the number of Carts and Carriages of 4 able Horses, or 4 Oxen and two Horses apiece, at 6 *d.* a mile for every mile they go laden, to be paid them in hand at the place of Lading; and no Carriage to be enforced to travel above one days journey from the place where they receive their Lading; and if any refuse, or shall not be ready at the time and place, and having not good cause to the contrary, the Justices upon proof thereof by 2 Witnesses, or the Oath of the Constable or other Officer, may by their Warrant cause to be levied by Distress and Sale of the Offenders Goods 40 *s.*

13 *Car.* 2. *chap.* 8. If any Justice of Peace or Officer take any Gift to spare any person from making such Carriage, or shall press more Carriages than is directed from the

the Green Cloth, the Offender forfeits 10 *l.* to be recovered by any perſon by Action of Debt in any Court of Record.

12 *Car.* 2. *ch.* 24. 13 *Car.* 2. *ch.* 8. No Preemption ſhall be allowed to the King, His Heirs or Succeſſors, nor to the Queen, or any of the Children of the Royal Family, in Market or out of Market; but all Subjects may diſpoſe of their Goods as they pleaſe. And if any perſon ſhall make any Purveyance, or impreſs any Carriages otherwiſe than is appointed by 13 *Car.* 2. *ch.* 8. by order from the Green Cloth, or other things by colour of any Authority of Purveyance for the King, &c. contrary to the Act 12 *Car.* 2. *ch.* 24. then two or one Juſtice of the Peace next adjoyning, and the Conſtable of the place where ſuch Offence is committed, upon complaint of the Party grieved may ſend the Offender unto the Gaol untill the next Seſſions, there to be indicted for the ſame. And the party grieved may have his Action againſt the Offender, and therein ſhall recover treble Damages and treble Coſts.

14 *Car.* 2. *ch.* 20. Two or more Juſtices of the Peace by Warrant from the Lord High Admiral of *England*, or two or more of the principal Officers or Commiſſioners

of

of the Navy, or the Master of his Majesties Ordnance, or the Lieutenant of His Ordnance, are to provide Carriages with horses and Oxen out of the Countrey, not being above twelve miles distant from the place of Lading; the owners of which Carriages or their servants are to receive Twelve pence a Mile for every Load of Timber, and Eight pence a Mile for every Tun of other commodities. And such persons as neglect or refuse to make their appearance, upon order thereof made before the Justices by the Constable or two witnesses, the person refusing or neglecting forfeits Twenty shillings, to be levied by Distress and Sale of his Goods by Warrant from the said Justices Mayor or other cheif Officer, or from the principal Officers or Commissioners of His Majesties Navy, or Master or Lieutenant of His Majesties Ordnance; rendring to the owner the overplus, if any be, first deducting the charge of Distreining.

Stat. ibid. No Horses, *&c.* or Land-carriage shall be forced to travel more dayes journey from the place where they receive their lading, nor be compelled to continue longer in the employment than the said Justices shall appoint; and that ready money be paid to the parties in hand at the

the place of Lading, according to the Rates aforeſaid.

The Act of 14 *Car. cap.* 20. & 13. *cap.* 8. are to continue untill the end of the firſt Seſſion of the next Parliament.

High Ways. 14 *Car.* 2. *chap.* 6. The Churchwardens, Conſtables, or Tythingmen of every Pariſh, are upon Monday or Tueſday in Eaſter Week (after notice given publickly in the Church the Sunday before) after Morning Prayer ended, with the advice and conſent of the major part of the Pariſh then preſent, to chuſe two or more ſufficient Inhabitants of the place to be Surveyors for the High Ways for the Year following; and give notice thereof to the Parties choſen in writing, under pain of Five pounds.

This Act is to continue untill the end of the firſt Seſſion of the next Parliament.

2,3 *P. & M. ch.* 8. The Churchwardens and Conſtables, &c. offending herein, may be puniſhed by Fine or Amerciament at the Quarter Seſſions by the diſcretion of the Juſtices.

Stat. ibid. P. & M. & 5 Eliz. cap. 13. The Conſtables and Churchwardens are then alſo to appoint ſix days between that and the four and twentieth day of *June*, for the

the Amendment of the High Ways, and to give publick notice thereof in the Church the next Sunday after.

Stat. idem. Stewards in Leets have power to inquire after the breach of this Statute about High Ways, and to set Fines upon such as make default at their discretion; and shall within six weeks after *Michaelmas* deliver Indented Estreats thereof under their Hands and Seals, *viz.* one part to the Bailiff or High Constable of the Liberty, and the other to the Constable and Churchwardens where the default was made.

Stat. idem. In default of Presentment thereof in Leets, the Justices of Peace may inquire thereof in their Sessions, and set such Fines as they or any two of them (whereof one must be of the *Quorum*) shall think fit, whereof the Clerk of the Peace shall deliver Indented Estreats in manner as is aforesaid.

Stat. idem. Dalt. J.P. *ch.* 76. *f.* 71. These Estreats of Stewards of Leets or Clerk of the Peace shall be a sufficient Warrant for the Bailiff or chief Constable to levy the said Fines by way of Distress; and if no Distress can be found, or the party do not pay the Fine within 20 days after demand thereof

thereof, he or they ſhall forfeit double ſo much. All which Fines and Forfeitures ſhall be beſtowed on the High Ways in the ſame Pariſh by the Conſtable and Churchwardens there.

Stat. idem. Dalt. J. P. *ch.* 26. *f.* 70. The Bailiff or High Conſtable is yearly between the firſt of *March* and laſt of *April* to render unto the Conſtable and Churchwardens, to whom the other part of the Eſtreat was delivered, a true account of the Moneys received by them, in pain of 40 *s.* And the ſaid Conſtables and Churchwardens have power to call the Bailiff or High Conſtable before two Juſtices (one of the *Quorum*) to paſs the Account, who have power to commit ſuch Bailiff or High Conſtable, untill they have ſatisfied all the Arrearages by them received.

Stat. idem. Upon paſſing their Account every Bailiff or High Conſtable ſhall be allowed Eight Pence for every Pound collected, and Twelve Pence for the Fee of the Eſtreat delivered.

Stat. idem. Dalt. ch. 26. *f.* 21. Any two Juſtices of Peace upon complaint to them made by the ſucceeding Conſtables and Churchwardens may call before them the precedent Conſtables and Churchwardens,

and

and compel them to pay in all Arrerages in their hands.

18 *Eliz.* ch. 10. The Surveyors by Warrant from two Justices of the peace, are to levy by distress ann sale of goods, the Forfeitures of all such persons as offend in not scowring their Ditches, *&c.* and if they neglect to levy the Forfeiture for the space of a year after the offence committed, then the Justices may send to the Constable and Churchwardens to levy the same.

14 *Car.* 2. ch. 2. Constables or other officers by warrant from any of His Majesties Justices of either Bench, Barons of the Exchequer, or Justices of the Peace to them directed, are to levy by Distress and Sale of the Offenders Goods, all such Penalties as shall be forfeited by the said Act touching repairing the High Ways and Sewers, and for paving and keeping clean the Streets in and about the Cities of *London* and *Westminster*; and for default of Distress or Non-payment of the said Penalties within 6 days after demand thereof, or notice in writing left at the house or dwelling place of the Offender by the said Constable or other officer. The said Offender (not being a Peer of the Realm) may be committed to the common Gaol of the said County or City by warrant

of

of any such Justice under his Hand and Seal, there to remain without Bail or Mainprize until payment thereof be made.

CHAP. VIII.

The Constables Office about Forein Bone Laces, &c. Chimny Money, Customs, Excise, Fish.

1. *Forein Bone Laces, &c* Constables upon Warrant directed to them from the Justices of Peace, or chief Officers of Cities and Corporate Towns, &c. are to search in their several Counties, Cities, Towns, and Liberties, in the Shops being open Warehouses, and Dwelling House of such person or persons, who shall be suspected to have any Forein Bone Laces, Cut Works, Embroideries, Fringes, Bandstrings, Buttons, or Needle Works, made of Thred, Silk, or any of either of them made in the parts beyond the Seas, and where they find any such to seize the same.

2. *Chimney Money.* 16 *Car.* 2 *ch.* 3. All Justices of the Peace, chief Magistrates, Treasurers, and Under-Treasurers, Constables,

bles, and other His Majesties officers, are within their several Liberties and Jurisdictions to ayd and assist His Majesties officers appointed for the collecting of the Duty of *Hearth-money*.

Stat. idem. The Officers appointed by His Majesty for the *Chimney-money*, once every year, being accompanied with the Constable or Tythingman, Treasurer or Under-Treasurer, or other publick officer of the Peace; and in all Parishes and places where there are no Constables, Tythingmen or other publick officers as aforesaid, there without any such assistance may enter in the day time into any dwelling or other House, Edifice, Lodging, and Chambers in any of the Inns of Court or Chancery, Colledges and other Societies, to search and examine whether there be any more *Fire-hearths* and *Stoves* in the same than were formerly returned or certified, and what are increased or decreased since the last Certificate. And if they find any variance in the Number returned, both the Officer and Officers appointed by His Majesty, and the Constable or Tythingman, or other Officer aforesaid are to Certifie the same under his or their hands to the Clerk of the peace.

Stat. idem. If the party after demand made

made by His Majesties officers, or their deputies, at the house, chamber, or place where the duty shall grow due, make default or refuse to pay, by the space of one hour after such demand, then the officer or his deputy, with the assistance of the Constable or Tythingman, or other Officer, may at any time in the day levy the said duty and all the Arrears thereof, by distress and sale of the goods of the parties making default, rendring the overplus to the owners, deducting necessary charges for taking the distress: which charges are not to exceed one moiety of the Duty and Arrears.

16 *Car.* 2. cap. 3. No arrears of *Hearth-money* are to be distreined for, after the space of two years next after such duty becomes due. And if any violence, opposition, or injury be done by any person or persons to any of His Majesties officers or their deputies, in the due execution of their office, Oath being made thereof before any one Justice of the peace or chief Magistrate, &c. such Justice or chief Magistrate, if they think fit, may commit the offendor to the common Gaol, for any time not exceeding one Moneth.

Stat. idem. The Constables are to have

two pence in the pound, paid them by the Collector to whom they pay the *Chimney-money*, by them collected; and are to pay nothing to the Collectors for their Acquittances.

3. *Customes.* 12 *Car.* 2. ch. 19. Any person having a Warrant from the Lord Treasurer or any of the Barons of the Exchequer, or cheif Magistrate of a Port, for the search of Uncustomed goods, may with the assistance of a Sheriff, Justice of the peace, or Constable, (who are to be aiding and assisting upon request) may enter into any House in the day time where such goods are suspected to be concealed; and in case of resistance, may break open such House, and seize and secure such goods,

Stat. idem. No House is to be entred unless it be within one Month after the offence supposed to be committed; and if the Information whereupon the House shall come to be searched do prove false, the party injured shall recover full costs and damages against the Informer by Action of Trespass.

14 *Car.* 2. ch. 11. Such persons as are authorized by Writ of Assistance out of the Exchequer, are to take a Constable, Headborough, or other officer inhabiting near the place

place, and in the day time to enter into any houſe, ſhop, cellar, warehouſe, room, or other place; and in caſe of reſiſtance break open the doors, cheſts, trunks, and other package there to ſeize, and from thence to bring any kind of goods or Merchandize whatſoever prohibited and uncuſtomed, and to put and ſecure the ſame in His Majeſties Storehouſe in the Port next to ſuch place where the ſeizure ſhall be made.

Idem. All Officers belonging to the Admiralty, Chaplains and Commanders of Ships, Forts, Caſtles, and Blockhouſes; and all Juſtices of peace, Mayors, Sheriffs, Conſtables and Headboroughs, and other the Kings Officers and Subjects whoſoever, whom it may concern, are to be aiding and aſſiſting to all and every perſon and perſons which are or ſhall be appointed by His Majeſty to manage His Cuſtoms; and if the Officers of the Cuſtoms, or any acting in ayd of them, ſhall be ſued, indicted, proſecuted or moleſted; ſuch perſons, their Heirs, Executors, and Adminiſtrators may plead the general iſſue, and give the ſeveral Acts relating to the Cuſtoms, or any of them, in evidence.

4. *Exciſe.* 12 *Car.* 2. ch. 23, 24. Gagers employed by the Commiſſioners of

Excise are to take the Constable with them when they enter by night into any house, to Gage their Coppers, Fatts or vessels; or to take an account of their Liquors made, brewed, or distilled in their Houses.

Idem. Such persons as shall be convicted before the Justices of peace, or Commissioners of Excise, of any offence and forfeiture within the Acts of Excise; the Constables by warrant from the Justices of peace are to levy the Penalties upon the goods of the offendors by distress and sale thereof (rendring the overplus;) and for want of distress, they are to convey the offendors to the Gaol, there to remain untill satisfaction be made.

And the Constables upon warrant are to summon Alehouse-keepers, &c. to appear before the Commissioners at such places and times as shall be appointed in the Warrants.

CHAP.

CHAP. IX.

Concerning Diſturbing of Miniſters, Swearing, Recuſants, Conventicles.

1. *Diſturbing of Miniſters.* 1 *Mar. Seſſ.* 3. *ch.* 3. *Wingat's Stat. tit. Sacraments. Dalt.* J.P. *ch.*41. *f.*103. If any perſon purpoſely without Authority diſturb a Preacher lawfully licenſed, in Preaching, Praying, or Adminiſtration of the Sacraments, either by Talking, Laughing, Humming, or the like; any Conſtable or Churchwarden of the place ought preſently to apprehend the party, and carry him before a Juſtice of the Peace of the ſame County, who may commit him to ſafe cuſtody; and within 6 days after (with another Juſtice of the Peace) they may examine the matter; and if they find it true by two Witneſſes, they muſt commit him to the common Gaol, there to remain for 3 Moneths, and from thence to the next Quarter Seſſions; at which upon the parties Reconciliation, and entring into Security for one whole Year, he may be releaſed, (at the diſcretion of the Juſtices;)

but if he continne ſtill in his obſtinacy, he muſt continue in Priſon without bayl till he be penitent.

Idem. He that Reſcues an offendor in this kind, ſhall ſuffer like Impriſonment, and forfeit Five pounds; and the Inhabitants that ſuffer ſuch an offendor to eſcape, being preſented before the Juſtices at their Seſſions of the County or Corporation where the offence was made, do alſo forfeit Five pounds.

2. *Prophane Swearing.* 21 *Jac.* ch. 20. 3 *Car.* 1. ch. 4. If any perſon ſhall prophanely curſe or ſwear, they forfeit Twelve pence for every time ſo offending; the offence muſt be preſented within Twenty dayes, and proved by two Witneſſes, or confeſſion of the party before a Juſtice of peace or Head-officer of a City or Town Corporate, who who may thereupon iſſue out their Warrant to the Conſtables, Churchwardens, and Overſeers of the poor of the Pariſh where the offence was committed, to levy the Forfeitures by diſtreſs and ſale of the offendors Goods, rendring the overplus to the owner, if any be.

Idem. Where no Diſtreſs can be found the offendor (if above Twelve years of age) ſhall by warrant from a Juſtice, &c. be ſet in

in the Stocks three whole Hours. But if the offendor be under Twelve years of age, and do not forthwith pay the forfeiture of Twelve pence *per* Oath, then muſt ſuch offendor be whipped by the Conſtable, or by the Parent or Maſter in the preſence of the Conſtable.

3. *Recuſants.* 3 *Jac.* ch. 4. The Conſtables and Churchwardens of every Pariſh, or one of them, or High-Conſtable of the Hundred, are once a year to preſent at the Seſſions of the peace, the Monthly abſence from the Church of all *Recuſants* and their Children above Nine years old, and their Servants; on pain to forfeit for every ſuch default reſpectively twenty ſhillings: which Preſentment the Clerk of the Peace or Town Clerk is to Enroll without fee, on pain of Forty ſhillings.

7 *Jac.* 6. If the Miniſter, Churchwardens, or Conſtable of any Pariſh, or any two of them, ſhall complain to any Juſtice of the peace, of any perſon ſuſpected for Recuſancy, then any ſuch Juſtice may tender the Oath of *Supremacy* to the perſon ſuſpected; and if he refuſe to take it, the Juſtice may commit the party to the Gaol, there to remain until the next Aſſizes or Seſſions of the Peace: And then if the party refuſe again,

he is in *Præmunire*; but if it be a Feme covert she shall be only imprisoned, there to remain without Bayl untill she will take the said Oath.

4. *Conventicles.* 16 *Car.* 2. ch. 4. If any Constable, Headborough, or Tythingman neglect to execute the Warrants to them directed for sequestring, distraining, and selling the Estate or goods of any seditious *Conventicler* to be transported; or neglect to distrain and sell the goods and chattels of such offendor for the levying of such summs of money as shall be imposed upon them for the first and second offence; in such cases the officer so offending for his neglect shall forfeit Five pounds, the one moiety to the King, the other moiety to him that will sue for the same in any of His Majesties Courts of Record.

16 *Car.* 2. cap. 4. If any person be at any time sued for putting in execution any of the powers in the Act against seditious Conventicles, such person shall and may plead the general issue, and give the special matter in evidence; and if the Plaintiff be nonsuit, or a verdict pass for the Defendant, or if the Plaintiff discontinue his Action, or if upon Demurrer Judgment be given for the Defendant, every such Defendant

fendant ſhall have his or their treble Coſts.

22 *Car.* 2. ch. 1. If any perſon of the age of Sixteen years and upwards, being a Subject of this Realm, after the Tenth of *May* 1670. ſhall be preſent at any Aſſembly, Conventicle, or Meeting, under colour of Religion, in other manner than according to the Liturgy of the Church of *England*, in *England*, *Wales*, or *Berwick* upon *Tweed*; at which Conventicle there ſhall be Five perſons or more over and beſides thoſe of the ſame Houſhould, if in a houſe, where a Family is reſiding; or if in a Houſe, Feild, or place where no Family inhabits, then where Five perſons or more are ſo Aſſembled, one or more Juſtices of the peace of the County, Limit, or Diviſion, &c. or the Chief Magiſtrate of the place where the offence is committed, are required upon proof to him or them made by Confeſſion of the party, or Oath of two Witneſſes, or by notorious evidence and circumſtance of the fact, to make a Record of every ſuch offence. And thereupon the ſaid Juſtice, &c. ſhall impoſe upon every ſuch offendor ſo convict a fine of Five ſhillings for ſuch offance, which Record to be certified to the next Quarter Seſſions of the peace.

2. And if the ſaid perſon ſo convicted ſhall again commit the like offence, he ſhall for every ſuch offence incurr the penalty of Ten ſhillings, the ſaid fines to be levied by diſtreſs and ſale of the offendors goods and chattels; and in caſe of poverty, on the goods and chattels of any perſons then convicted for the ſame offence at the Conventicle, at the diſcretion of the Juſtices, &c. ſo as the ſumm to be levied upon one in caſe of poverty of others exceed not Ten pounds upon occaſion of one Meeting. And every Conſtable, Headborough, Tythingman, Churchwardens, and Overſeers of the poor, are required to levy the ſame accordingly, having firſt a Warrant, and forthwith to deliver the ſaid moneys to the Juſtices, &c. of which one Third to the King, another Third to the Poor of the pariſh where the Offence was committed, and the other Third to the Informers and ſuch perſons as ſhall be dilgent in the diſcovery, diſperſing and puniſhing of the ſaid Conventicles.

3. Every perſon that ſhall take upon him to Teach or Preach in any ſuch Meeting, &c. and ſhall be convicted as aforeſaid, ſhall forfeit for the firſt offence Twenty pounds, to be levied as aforeſaid: And if he

he be a ſtranger, and his name and habitation not known, or is fled and cannot be found, or in the judgement of the Juſtices, &c. ſhall be thought unable to pay the ſame, the ſaid Juſtices, &c. are required to levy the ſame by Warrant upon the Goods and Chattels of any perſon preſent at at the ſame Conventicle; the Money ſo levied to be diſpoſed as aforeſaid. And for the ſecond Offence ſhall incur the Penalty of 40 *l.* to be levied and diſpoſed as aforeſaid.

4. Every perſon that ſhall ſuffer any ſuch Conventicle or Meeting, &c. to be held in his or her Houſe, Out-houſe, Barn, Yard, or Backſide, and convicted thereof, ſhall forfeit 20 *l.* to be levied as aforeſaid: and in caſe of his or her Poverty, upon the Goods of any convicted of being preſent at the ſame Conventicle.

5. Provided no perſon ſhall pay above 10 *l.* in any one Meeting in regard of the Poverty of any other.

6. Any Offender agrieved may within one Week after the Penalty paid or levied, appeal in Writing to the next Quarter Seſſions, to whom the Juſtices, &c. that convicted the Offender, are to return the Money, and certifie the Evidence upon which the Conviction paſt, whereupon ſuch Offender may

may plead and have his Trial by a Jury. And if ſuch Appellant ſhall not be acquitted, he ſhall pay treble coſts; and no Court but the Quarter Seſſions ſhall meddle with Cauſes of Appeal upon this Act.

7. Upon the delivery of ſuch Appeal the Appellant ſhall enter into a Recognizance to proſecute with effect, or elſe the Appeal to be void.

8. The Juſtice, Juſtices of the Peace, &c. or the Conſtables by Warrant, may with what aid or force they ſhall think fit (after refuſal) break open and enter into any houſe or place where ſuch Conventicle ſhall be held, and take into cuſtody the perſons there unlawfully aſſembled: and the Lieutenants, Deputy Lieutenants, or any commiſſioned Officer of the Militia, or other His Majeſties Forces, with Horſe and Foot; and alſo the Sheriffs and other Magiſtrates and Miniſters of Juſtice, upon Certificate to them made of ſuch unlawful Meeting, are required to repair to the place where they are ſo held, and diſſolve or prevent the ſame, and take into their cuſtody ſuch perſons ſo aſſembled as they ſhall think meet.

9. The dwelling houſe of a Peer, where his Wife is reſident, ſhall not be ſearched but by immediate Warrant from the King, or

or in the preſence of the Lieutenant, Deputy Lieutenant, or two Juſtices, of which one of the *Quorum*.

10. If any Conſtable, Headborough, Tythingman, Churchwarden, or Overſeer of the Poor ſhall know or be informed of any ſuch Meetings or Conventicles within his Precincts, Pariſh, &c. and ſhall not inform ſome Juſtice of Peace or chief Magiſtrate, but omit the performance of his Duty in the execution of this Act, and thereof be convicted, ſhall forfeit 5 *l.* and every Juſtice of Peace or chief Magiſtrate ſo offending ſhall forfeit 100 *l.* the one moiety to the Informer.

11. If any perſon be ſued for putting this Act in execution, otherwiſe than by Appeal as aforeſaid, he may plead the General Iſſue, and upon a Nonſuit or Verdict paſt for him recover treble coſts.

12. This Act and all Clauſes therein ſhall be conſtrued moſt largely and beneficially for the ſuppreſſing of Conventicles, and juſtification of all perſons imploy'd in the execution of this Act.

13. Provided every Offence againſt this Act muſt be proſecuted within 3 Moneths: and no perſon puniſhed by this ſhall be puniſhed by any other Law.

14. All

14. Aldermen of *London* have the ſame power as Juſtices, and liable to the ſame Penalties for neglect of their Duties.

15. A Feme Covert offending, and cohabiting with her Husband, the Penalties of 5 and 10 *s.* ſhall be levied upon the Goods of the Husband.

16. No Peer ſhall be attached or impriſoned by virtue or force of this Act.

17. This Act ſhall not invalidate His Majeſties Supremacy in Eccleſiaſtical Affairs.

By the Statute of 25 *Car.* 2. *cap.* 2. intituled, [*An Act for preventing Dangers which may happen from Popiſh Recuſants*;] amongſt other things it is Enacted, That all perſons that ſhall bear any Offices, or ſhall have Command or Place of Truſt under His Majeſty within *England*, *Wales*, or Town of *Berwick upon Tweed*, *&c.* who ſhall inhabit or be within the City of *London* or *Weſtminſter*, or within 30 miles diſtant from the ſame, ſhall in Eaſter Term 1673, or Trinity Term following, in His Majeſties Court of Chancery or Kings Bench, between Nine and Twelve of the clock in the Forenoon, take the ſeveral Oaths of Supremacy and Al-

Allegeance: or, not having taken the ſaid Oaths in the ſaid reſpective Courts, ſhall on or before the firſt of *Auguſt* 1673, at the Quarter Seſſions for that County or Place where they ſhall be, inhabit, or reſide, on the 20th. of *May*, take the ſaid Oaths in open Court, between the ſaid hours of Nine and Twelve. And ſhall alſo receive the Sacrament of the Lords Supper, according to the Uſage of the Church of *England*, at or before the firſt of *Auguſt* 1673. in ſome Pariſh Church upon ſome Lords Day immediately after Divine Service and Sermon, or in the next Term after their Admittances into their Offices or Imployments.

And all perſons neglecting or refuſing to take the ſaid Oaths and Sacrament in the ſaid Courts and Places, and at the reſpective times aforeſaid, ſhall be *ipſo facto* adjudged uncapable and diſabled in Law to all intents and purpoſes whatſoever, to have, occupy, or enjoy the ſaid Offices or Imployments, or any Profit or Advantage appertaining to them or any of them. And every ſuch Office and Place, Imployment and Imployments, ſhall be void, and is by the ſaid Act adjudged void.

Provided that this Act, or any thing therein contained, shall not extend to the Office of any *High Constable*, *Petty Constable*, *Tything man*, *Headborough*, *Overseer of the Poor*, *Churchwardens*, *Surveyor of the High Ways*, or any like inferiour Civil Office.

THE

THE

Churchwardens

OFFICE.

THE Antiquity of the Office of a *Churchwarden* (when firſt they received that Title) is very uncertain: but ſo Ancient it is, that ſome are of Opinion, that 87 Years after *Britain* had received the Chriſtian Faith, which moſt Hiſtorians do agree was planted here in the Reign of King *Lucius*, in the Year of *Chriſt* CLXXX, who is hitherto ſtyled the firſt Chriſtian King of this Iſle; and that *Dionyſius* in the Year CCLXVII did divide (both in *Rome* and other places) to Biſhops their Dioceſes, and Pariſhes, Churches and Churchyards to Prieſts, Vicars and Curats; but whether at that time, or

or how long after Churchwardens were instituted, is not certainly known.

But all Authors do agree that they are very ancient Officers, and Mr. *Lambert* ſaith in his *Duty of Churchwardens*, *pag.* 46. That theſe Churchwardens of Pariſhes are at the Common Law taken in the manner of a Corporation, 12 *H.*7.*ult.* that is to ſay, Churchwardens at the Common Law are perſons enabled by that name to take Moveable Goods or Chattels, and to ſue or be ſued at the Law concerning ſuch Goods for the uſe and profit of their Pariſh.

*Lib. Intrat. f.*576. A man may in his life time give, or in his laſt Will bequeath, Money or other moveable things to the Churchwardens or Pariſhioners, either for repairing of their Pariſh Church, or for the buying of Books, Communion Cups, or Linen Clothes, or other decent Ornaments or Furniture for the Church; and it is not needful in ſuch a Gift for a man to uſe expreſs words or writing.

11 *H.* 4. 12. 8 *H.* 7. 12. If a man buy a Bell, and hang it up in the Steeple, or do make a Pew, and ſet it up in the Church, and do neither make any word or writing thereof, yet by this is the Bell or Pew dedicated or given to the Church.

37

37 *H.* 6. 30. & 34. 11 *H.* 4. 12. The Churchwardens have no Action at the Common Law to recover a Legacy, nor any thing which they never had; but if any Goods or Ornaments of the Church, be once in their poſſeſſion and cuſtody, they may maintain an Appeal of Robbery againſt him that ſtealeth them, and an Action of Treſpaſs againſt him that ſhall wrongfully take them away, although it be the Vicar or Parſon himſelf: and the Damages that ſhall be recovered thereby ſhall be to the uſe of the Pariſh, and not to their own uſe.

Fitz. N. B. 91. *K.* But if thoſe Churchwardens (from whom the Goods were ſo taken) ſhall happen to die before any Action by them brought for the Goods, the ſucceeding Churchwardens ſhall have an Action for the ſame Goods.

Canon. Eccleſiaſtic. 89, 90. In the Book of *Conſtitutions and Canons Eccleſiaſtical*, agreed upon in the Synod begun at *London Anno Dom.* 1603. and in the firſt Year of King *James*, it is appointed that Churchwardens, Queſtmen, Sidemen, or Aſſiſtants in every Pariſh, ſhall be choſen by the joynt conſent of the Miniſter and the Pariſhioners, if it may be; but if they cannot agree upon ſuch a choice, then the Miniſter ſhall chuſe one,

and

and the Parishioners another: and without such a joynt or several choice none shall take upon them to be Churchwardens; neither shall they continue any longer than one Year in that Office, except they be chosen again in like manner; and they are to be yearly chosen in Easter Week.

But notwithstanding this *Canon*, where there is an ancient Custom in any Parish for the choice of Churchwardens contrary to the *Canon*, in such case the Custom is to be observed before the *Canon*, as shall be instanced in several cases, *viz.*

The Parishioners Case of Rovenden in Kent, *Rolls Cases part* 2. *f.*287. *Pas.* 5 *Jac. B. R.* If the Parishioners of a Parish have used time out of mind, &c. to chuse one Churchwarden, and the Parson or Vicar another, and afterwards a *Canon* is made, that the Vicar shall elect two, and he do so accordingly; and the Parishioners elect one according to their Custom, and the Ordinary disallows him, and confirms the other two chosen by the Vicar, in this case a Prohibition shall be granted.

Trin. 7 *Car.* 1. *B.R. between* Shirley and Brown, *Rot.* 1391. *Rolls* 2 *part*, *fol.*287. A Prohibition was granted against a Churchwarden chosen by the Parson of S. *Magn*

by *London* Bridge by force of a *Canon*, upon a ſurmiſe that the Pariſh had a cuſtom to chuſe two Churchwardens.

Warners Caſe, *B.R. Paſ.* 17 *Jac.* The like was granted againſt a Churchwarden choſen by the Parſon of S. *Alhallows London.*

Paſ. 5 *Jac. Cro.* 2 *part Rep.* The Caſe of the Pariſhioners of *Walbrook London.*

Paſ. 15 *Car.* 1. *B.R.* The like againſt a Churchwarden choſen by the Parſon of St. *Thomas* in *London*, *Cro.* 3 *part*, *Evelyn's Caſe.*

Paſ. 4 *Car.* 1. *B. R. rot.* 420. *Rolls Caſes*, 2 *part fol.* 287. The like granted between *Draper* and *Stone* for *Abchurch* in *London.*

An Attorney cannot be made a Churchwarden; but if he be put in, and refuſe, and be ſued in the Spiritual Court, he may have a Prohibition. *Wilſon's Caſe*, *Paſ.* 14 *Car.* 1. *B. R. & Baker's Caſe*, *Trin.* 14 *Car.* 1. *B.R. Rolls Caſes* 2 *part f.* 272.

15 *Car.* 2. *cap.* 5. All Veſtry-men, or Members of any Veſtry within any Pariſh in *London*, *Weſtminſter*, Borough of *Southwark*, and Bills of Mortality; and in all other Cities, Boroughs, and Towns Corporate in *England*, where Select Veſtries are uſed, are within one Moneth after their Election,

ction, before the respective Archbishop, Bishop, Ordinary, Vicar General, or Chancellor of the Diocese, to make and subscribe as followeth, *viz.*

I A.B. *do declare, That it is not lawful upon any pretence whatsoever to take up Arms against His Majesty, and that I do abhor that Traitorous Position of* Taking Arms by His Majesties Authority against His Person, or against those that are Commissionated by Him; *and that I will conform to the Liturgie of* England, *as it is now established. And I do declare, That I hold there lies no Obligation on me, or on any other person, from the Oath commonly called,* The Solemn League and Covenant, *to endeavour any Change or Alteration of Government either in Church or State; and that the same was in it self an unlawful Oath, and imposed upon the Subjects of this Realm against the known Laws and Liberties of this Kingdom.*

Stat. idem. He that refuses to make this Subscription within the said time, is *ipso facto* deprived of his place of Vestry-man, and a new one is to be chosen in his stead; and if such new one also refuse to subscribe, or if such person who shall have right of Election,

ction, ſhall not elect within one Moneth after the Vacancy, the Archbi hop, Biſhop, or Ordinary of the Dioceſe, may under his Hand and Seal elect a diſcreet perſon of the Pariſh, who after ſuch Subſcription is to ſtand. This Act is to continue till the end of the firſt Se ſion of the next Parliament.

Canon 90. 5 *Ed.*6.*ch.* 1. The Churchwardens are diligently to ſee that all the Pariſhioners duly reſort to their Pariſh Church on Sundays and Holydays, and there continue the whole time of Divine Service; and none to walk, or ſtand idle, or talking in the Church, Chur ch-yard, or Church-porch, during that time; and all ſuch as ſhall be found ſlack or negligent in reſorting to the Church, (having no great or urgent cauſe of Abſence) they ſhall earneſtly call upon them; and if they amend not after due Admonition they muſt preſent their Names to the Ordinary of the place.

1 *Eliz.ch.* 1. *Hobarts Rep. fo.* 97. If the Churchwardens find any perſon abſent from the Church upon Sundays or Holydays in the time of Divine Service, Preaching, or other Holy Exerciſe, ſuch perſon is to pay 12 *d.* to the uſe of the Poor. And this extends as well to all Women Covert, as to other perſons: or the Churchwardens may

pre-

preſent ſuch Offenders in the Eccleſiaſtic
Court; but they muſt not pay 12 *d.* and b
preſented too.

The ſame Forfeiture is againſt all ſuch a
open their Shops, or work on Holydays
which if it were duly put in execution, th
Poor might be better provided for, but
doubt too many Officers are guilty thereo
themſelves.

4 *Jac. ch.* 5. If the Officer find any tipling
in any Inn or Alehouſe in the time of Divin
Service, then they forfeit 3 *s.* 4 *d.* more fo
tipling, beſides the 12 *d.* for being abſen
from the Church. And the Maſter of th
Houſe that ſuffers them to drink forfei
10 *s.* which Forfeitures are to the uſe of th
Poor.

Can. 88. The Churchwardens or Queſt-
men and their Aſſiſtants ſhall ſuffer n
Plays, Feaſts, Banquets, Suppers, Churc
Ales, Drinkings, Temporal Courts or Leets
Lay Juries, Muſters, or any other Profan
Uſage to be kept in the Church, Chapel, o
Churchyard; neither the Bells to be rung
ſuperſtitiouſly upon Holydays or Eves abro
gated by the Book of Common Prayer, no
at any other times without good cauſe, t
be allowed by the Miniſter of the place an
by themſelves.

Can

Can. 50, 85. Neither the Miniſter, Churchwardens, nor any other Officer of the Church, ſhall ſuffer any man to preach within their Churches nor Chapels, but ſuch as by ſhewing their Licenſe to preach ſhall appear unto them to be ſufficiently authorized thereunto.

And the Churchwardens and Queſtmen are alſo to ſee that in every Meeting of the Congregation the Peace be well kept, and that all perſons excommunicated, and ſo denounced, be kept out of the Chnrch.

Finch, lib. 2. ch. 17. pag. 179. *Rolls*, Caſes, 1. part, fo. 393. Although, as I have ſaid before, the Law doth make Churchwardens a kind of Corporation, and enables them by that name to take moveable Goods and Chattels, and to ſue and be ſued at Law concerning ſuch Goods for the uſe and benefit of their Pariſh; yet they cannot take an Eſtate of Lands to them by name of Churchwardens; for if a Feoffment be made to the uſe of the Churchwardens of *H.* this uſe is void, for they have no capacity to take ſuch Purchaſe.

Neither can Churchwardens preſcribe to have Lands to them and their Succeſſors, for they are no Corporation to have Lands, but for Goods of the Church onely.

If a Bell be broken, the Churchwardens may have an Action againſt him that brake it, and ſhall recover Damages, which ſhall be to the uſe of the Pariſh, and not to their own uſe.

The Churchwardens have no ſuch property in the Goods of the Church, as thereby to have power to give, ſell, releaſe, hurt, or impair them, without the aſſent of the Sidemen or Veſtry.

Finch lib. 2. *chap.* 17. *pag.* 179. If the Churchwardens ſhall give or impair the Goods of the Church in their cuſtody, the Pariſhioners may chuſe new ones, who may have an Account againſt their Predeceſſors.

Trin. 21 *Jac. B. R. Rolls Caſes* 1 *part f.* 393. If the Organs be taken out of the Church, the Churchwardens may bring an Action of Treſpaſs for the ſame; for the Organs belong to the Pariſhioners, and not to the Parſon: and therefore the Parſon cannot ſue the party in the Eccleſiaſtical Court that took them.

10 *H.* 4. *fol.* 9. 8 *H.* 6. *fol.* 9. If the Walls, Windows, or Doors of the Church be broken down, or the Trees in the Churchyard be cut down, or the Grafts thereof be eaten up; in this caſe the Parſon or Vicar, and

and not the Churchwardens, ſhall have an Action for it. A Parſon may bring his Action for breaking and entering into his Houſe and Cloſe, when it is the Church and Churchyard.

Mich. 16 *Jac. C.B. rot.* 716. *Smith and Pannels Caſe.* If the Churchwardens preſent in the Eccleſiaſtical Court, That one *A. B.* (one of their Pariſhioners) is a Railer, and Sower of Diſcord amongſt his Neighbours: in ſuch caſe there lies a Prohibition; for this belongs to the Leet, and not to the Spiritual Court, unleſs ſuch Railing were in the Church or Churchyard.

If the Churchwardens ſue in the Eccleſiaſtical Court for a Church Way, which they claim to belong to all the Pariſhioners by Preſcription, a Prohibition lies, for this is a Temporal Cauſe.

If the Churchwardens of *H.* ſue *R. A.* in the Eccleſiaſtical Court, for that he and all thoſe whoſe Eſtate he hath in ſuch an Houſe, &c. at the Perambulation or Proceſſion of the Pariſhioners of the Pariſh, did uſe to provide a Refreſhing for them, with Bread, Cakes, Cheeſe, and Ale, &c. and ſuffer them to reſt there: in this caſe a Prohibition will be granted,

for that they claim it in the nature of a *Corrody.*

A *Corrody* was a reaſonable Allowance of Meat, Drink, Bread, Money, Clothing, Lodging, and ſuch like Suſtenance; which every Founder of Abbeys, Priories, Nunneries, and other Houſes of Religion, had in the ſame Houſes where they were ſtanding: for his Father, Brother, Couſin, or other man that he would appoint, ſhould take it, if it were a Houſe of Monks; and if he were a Founder of a Houſe of Nuns or Women, then the ſame for his Mother, Siſter, Couſin, or other Woman that he would direct thither.

And always this was provided for, that he that had a *Corrody* in a Houſe of Monks, might not ſend a Woman to receive it; nor where a *Corrody* was due in a Nunnery, there it was not lawful to ſend a man to receive it; for in both caſes ſuch Preſentation was to be rejected.

The Churchwardens are to look to the Repair of the Seats in the Church, but the diſpoſing of the Seats in the Body of the Church belongs of common right to the Ordinary of the Dioceſe, ſo that he may place and diſplace whom he pleaſes, except in ſome caſes.

For

For the Ordinary hath nothing to do with the Seats in the Chapels belonging to the Houſes of Noblemen.

And if a man and his Anceſtors, and all thoſe whoſe Eſtate he hath in a certain Meſſuage, have uſed time out of mind to repair an Iſle of the Church, and to ſit there, and none elſe; in ſuch caſe the Ordinary cannot diſplace him, becauſe he hath it by Preſcription for a reaſonable conſideration.

If a man preſcribe, that he and his Anceſtors, and all thoſe whoſe Eſtate they had in a certain Meſſuage, did uſe to ſit in a certain Seat in the Body of the Church time out of mind, in conſideration that he and they have uſed time out of mind to repair the ſaid Seat, if the Ordinary remove him from ſuch Seat, a Prohibition may be brought, for the Ordinary hath no power to diſpoſe of it; for it is a good Preſcription, and by intendment a good Conſideration for the ſame.

But if a man preſcribe to have a Seat in the Body of the Church generally, without conſideration to repair the ſame, in ſuch caſe the Ordinary may diſplace him.

37 *H.*6.30. 11 *H.*7.27. *Canon* 20, 70, 80, 81, 82, 83, 84, 85. The Churchwardens are to ſee that the Church and Church-

yard be well repaired and kept clean; and they are to provide Books of Common Prayer, Books of Homilies, a Parchment Book for Regiſtring of Chriſtenings, Weddings, and Burials in; Fonts, Pulpits, Tables, Cheſts for Alms, Communion Cups, Ornaments, and other Furniture, and a Cheſt with three Locks and Keys for putting the ſame in. And they are to provide Bread and Wine for the Sacrament according to the Number of the Communicants.

And they may Rate the Pariſh for money to defray their Charges,

Their Rates are to be done by the Churchwardens with the aſſent of the greater part of the Pariſhioners, and upon a general warning given before they meet for that purpoſe. And the Eccleſiaſtical Court hath cognizance of the reparation of the Body of the Church.

Co. 5. Rep. fo. 67. If a man dwell in one Pariſh and have Lands in another Pariſh which he occupies there, he may be charged for ſuch Lands for the Reparation of the Churh of the Pariſh where the Lands lye.

Co. ibid. If an Inhabitant of one Pariſh leaſe out his Lands which he hath in another Pa-

Pariſh, reſerving Rent, then he ſhall not be charged in the Pariſh where the Lands lye, becauſe there is a Pariſhioner and Inhabitant who may be charged.

If a man live in one Pariſh, and occupy Lands in another Pariſh, he ſhall not be charged in that Pariſh where the Lands lye, for the Ornaments of the Church according to his Land; for the Inhabitants only ought to be rated for them.

Neither can a man be charged in the Pariſh where he doth inhabit, for the Lands which he occupieth in another Pariſh, towards the Reparation of the Church in the Pariſh where he liveth; becauſe then he might be twice charged, for he may be charged in the Pariſh where the Land lies.

Mich. 13 *Jac. C.B.* If there be a Chapel of Eaſe within a Pariſh, and one part of the Pariſh have uſed time out of mind to repair the Chapel themſelves without the reſt of the Pariſhioners, and there to hear Service, and Marry, and all other things, but onely that they bury at the Mother Church; notwithſtanding they muſt contribute to the Reparation of the Mother Church.

If ſome Pariſhioners be rated, and others are not, and thoſe who are rated are ſued in the Eccleſiaſtical Court, they muſt plead this matter in this Court, for they cannot have a Prohibition.

Where there are Five Bells in a Church, and the major part of the Pariſhioners agree that there ſhall be made a ſixth Bell, which is made accordingly, and they make a Rate for the Payment of it, this ſhall bind the remainder of the Pariſhioners, though they did not agree unto it; otherwiſe any obſtinate perſons might hinder any thing intended, and what is fit for the Ornament of the Church. *Heckfield* and *Mattingly*, *&c.*

Every man ought to be rated according to his Perſonal Eſtate, and not according to his Lands, for the Goods and Ornaments of the Church; and by a Land Rate for Church Reparations, though the Occupier of the Lands live in another Pariſh.

Theſe things are accounted Church Reparations, and are to be performed by a Land Rate, *viz.*

The Walls of the Church and Steeple, the Churchyard Walls or Rails, the Windows and Bars of Iron, and Glaſs, the Roof of

of Timber, with Laths, Nails, Prigs, Dogs, and Bolts of Iron, the Covering of Lead, Tyle, Slates, or Shingles, the Floor with Stone or Paving Tyle, the Doors with Locks, Keys, Ridges, Hooks, and Nails; the Furniture of the Steeple, with Stairs, Floors, Bells, Wheels, and Ropes, the Pulpit, and the Pews and Seats not made by private men.

These following are to be rated on the Inhabitants of the Parish, and not upon Outdwellers, *viz.*

The Communion Table, and Coverings thereof, the Communion Cups, the Bread and Wine for the Communicants, the Bible and other Books appointed to be in Churches, the Washing of the Communion Clothes, Candles for Lecture Days, the Surplice, Pulpit Cloth and Cushion, the Clerk and Sextons Wages, and Expences of the Churchwardens and Sidesmen about the Parish Business.

The Churchwardens are to joyn with the Constables in making of Rates for the Relief of the poor Maimed Souldiers and Mariners, and for conveying Prisoners to the Gaol, and to execute Warrants for the same.

14 *Car.* 2. *ch.* 2. The Churchwardens are to joyn with the Conſtables in the chuſing of Surveyors for the High Ways, and in the ſetting down of Days for the Work, and in the overſight of the High Conſtables Account for the Money they do receive upon any Forfeitures about the High Ways. And they may with the aid of two Juſtices (one of the *Quorum*) force High Conſtables to account for and pay in what Money they have received forfeited for default of High Ways; and to execute the Juſtices Warrants for the Penalties and Forfeitures about cleanſing the Street and repairing the High Ways.

18 *Car.* 2. *cap.* 4. The Churchwardens and Overſeers of the Poor are to execute the Juſtices Warrant for levying the Penalty of Five pounds upon the parties Goods that is not buried in Woollen, which Penalty is to be imployed to the uſe of the Poor.

14 *Car.* 2. ch. 2. The Churchwardens in *London*, *Weſtminſter*, and Borough of *Southwark*, *&c.* upon every Tueſday or Wedneſday in Eaſter Week, together with the Conſtable, Overſeers of the Poor, and Surveyors of High Ways in every Pariſh reſpectively, or the greater number of them; gi-

giving notice or calling together ſuch other Inhabitants of their Pariſhes as have formerly born the like Offices, they or the greater number of them are to make choice of, and ſhall nominate and appoint two or more able perſons, that are Tradeſmen of their Pariſh, to be Scavengers for the Streets, Lanes, and other open Paſſages of each Ward or Diviſion within the ſaid Pariſh for the Year next following, and untill others be choſen and ſettled in their places.

Canon 89. The Churchwardens at the end of their Year, or within one Moneth after at the moſt, are before the Miniſter and Pariſhioners to give up a juſt Account of their Receipts and Diſburſements; and at their going out of their Office they are to deliver up to the Pariſhioners what Money or other things of right belonging unto the Church which they have remaining in their hands, that it may be delivered over by them unto the next Churchwardens by Bill indented.

If the Churchwardens refuſe to do this, they may be preſented at the next Viſitation Court for it, or the ſucceeding Churchwardens may bring their Action o Account againſt them at the Common Law, and com-

compell them to it; and in this Account they ſhall be allowed their needful Diſburſments and Expences about the Pariſh buſineſs.

Canon 116. The Churchwardens, Queſtmen, or Sideſmen ſhall not be bound to exhibit their Preſentments above once a year where it hath been no oftner uſed, nor above twice a year in any Dioceſe whatſoever, except it be at the Biſhops Viſitation; for the which Preſentments of every Pariſh Church or Chapel, the Regiſter of the Court where they are to be exhibited ſhall not receive above 4 *d.* in one year, under pain of Suſpenſion from the execution of his Office the ſpace of one Moneth for every Offence *totics quoties*. But the Churchwardens may voluntarily preſent oftner if they pleaſe.

Canon 117. No Churchwardens, Queſtmen, or Sideſmen ſhall be called or cited but onely at the time or times before limited, to appear before any Eccleſiaſtical Judge whatſoever, for refuſing at other times to preſent any Faults committed in their Pariſhes, and puniſhable by Eccleſiaſtical Laws. Neither ſhall they or any of them (after their Preſentments exhibited at any of thoſe times) be any further troubled for the ſame. Except it evidently appear that they did willingly

singly and wittingly omit to present some publick Crime or Crimes, as they knew to have been committed, or could not be ignorant that there was then a publick fame of them; or unless there be very just cause to call them to explain their former Presentments. And in case of wilful omission their Ordinaries shall proceed against them in such sort, as in Causes of wilful Perjury in a Court Ecclesiastical it is already by Law provided.

Canon 113, 118. One of the two times of Presentments is always to be about a Week or Fornight after Easter, at which time also the old Churchwardens are to leave their Office, and new ones are to come in; but the new ones are not to be sworn till the old ones have given in their Presentments; and every Parson or Vicar, or their Curats in their absence, are to joyn in the Presentment with the Churchwardens, &c. and if the Churchwardens refuse to present, then every such Parson and Vicar, or in their absence their Curates may themselves present to their Ordinaries at all such times, and when else they shall think fit.

The Summe of the Articles usually given to the Churchwardens to make their Presentments upon are these, *viz.*

1. *WHether their Church and Chancel, Bells and Ropes be in good repair, and the Ten Commandments, Lords Prayer, and Creed, drawn out in fair Letters, the Kings Arms set up, Assessments made for the Repair of the Church, and who refuses to pay?*

If they have a Font, Communion Table, Carpet, Table Cloth, Flagons with Cups and Cover for Bread and Wine, a Reading Desk, a Pulpit with a Cushion and Covering for it, a fair Common Prayer Book of the largest Volum, the Bible in Folio of the last Translation, with a Book of Homilies, and Book of Canons, and a Surplice?

If the Tombs, Monuments, and Gravestones, be safely kept from removing and breaking?

A Book of Parchment for Registring Christenings, Weddings, and Burials, &c. a Chest with 3 Locks to put the same and the Church Ornaments in, with a Box for Alms, and a Table of Degrees prohibiting Marriage hung up in the Church?

If

If the Parſonage Houſe and Out-houſes be in good Repair, and the Churchyard well fenced to keep out Swine? &c.

2. *Whether the Parſon, Vicar, or Curate, read the Common Prayer at Morning and Evening Service, wear his Surplice, bid Days, preach every Sunday, or read an Homily, catechiſe, obſerve the Fifth of* November, *Thirtieth of* January, *Twenty nineth of* May, *and Second of* September; *and obſerve Perambulations, or going the Bounds in Rogation Week, preach ſound Doctrine, and vent no Sedition againſt the King or Government, celebrate the Lords Supper three times every Year at leaſt, whereof at Eaſter for one; baptize Infants with Godfathers and Godmothers, viſit the ſick and pray with them, bury the dead according to the Book of Common Prayer, marry none clandeſtinely, preach in his Gown, be a man of a ſober and chaſte life, a Peacemaker amongſt his Neighbours, and one that takes care to reduce Sectaries, Recuſants, Separatiſts, and refractory Parſons, to the Obedience and Doctrine of the Church; and reads the Book of Canons to the People at leaſt once every Year, and the* 39 *Articles Twice every Year?*

3. Whe-

3. *Whether all their Parishioners of due age resort to the Church to Divine Service, behave themselves reverently there, kneel, stand up, and make Answer to the Rubrick of the Common Prayer book? Whether any work on, or sell Wares on Sundays or Holydays? Or whether Vintners, Victuallers, Innkeepers, or others do receive any to drink in their Houses in the time of Divine Service?*

Whether any marry within the Degrees forbidden, or be Adulterers, Swearers, Blasphemers, Drunkards?

If any above 16 years of age do not receive the Lords Supper 3 times a year, whereof Easter to be one?

If any keep their Children unchristned, Women that come not to be churched, or any bring not their Dead to be buried after the Service of the Church? Or if any be married without Banes or License at unlawful hours?

4. *Whether their Parish Clerk and Sexton (if they have any) be duly chosen, can write and read, be of an honest Life, and make the Responses to the Hymns and other Suffrages?*

And if the Schoolmaster, Physician, Chirurgeon, and Midwife (if they have any) teach or practise without License? If the Churchwar-

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dens be duly choſen according to the Canon and Cuſtom, &c.

Stat. 22 & 23 *Car.*2.*cap.*16. For the better diſcovery of the Offenders in detaining the Moneys given for the relief of the Poor of the City of *London*, at the times of the late Plague and Fire, all Archbiſhops, Biſhops, Archdeacons, Deans, and Officials in their Viſitations ſhall give it in charge to all Miniſters, Churchwardens, and Sideſmen, that they preſent the Names of all ſuch perſons, as they know or believe do detain any of the ſaid Moneys, and the Summe ſo detained by them.

By the Statute of the 22 & 23 *Car.*2.*cap.* 17. intituled, [*An Act for the better Paving and Cleanſing the Streets and Sewers in and about the City of* London;] it is enacted (amongſt other things) that where any Church or Churchyard ſhall be fronting or adjoyning to any of the Streets, Lanes, or Paſſages before mentioned in the ſaid Act, the perſons thereby authorized and appointed, ſhall rate and aſſeſs a reaſonable proportion thereof upon the Pariſh thereunto belonging, the ſame to be paid by the Churchwardens of every ſuch Pariſh for the time being, who are by the ſaid Act required

red to pay the ſame accordingly in the behalf of the ſame Pariſh.

Stat. 25 *Car.* 2. *cap.* 2. Every of the perſons appointed by the ſaid Act to take the Oaths of Supremacy and Allegeence, in the reſpective Court where he takes the ſaid Oaths, ſhall firſt deliver a Certificate of his Receiving the Sacrament of the Lords Supper, as in and by the ſaid Act is likewiſe appointed, under the Hands of the reſpective Miniſter aud Churchwardens, and ſhall then make proof of the Truth thereof, by two Credible Witneſſes at the leaſt upon Oath.

THE OFFICE OF THE Overſeers of the Poor.

Stat. 43 Eliz. cap. 2. 21 Jac. cap. 28. The Overſeers of the Poor are to be choſen yearly, and joyned with the Churchwardens of the Pariſh in the overſight and ordering of the Poor of the Pariſh. They are to be choſen by two or more Juſtices of the Peace, (one whereof to be of the *Quorum*) who are yearly under their Hands and Seals at Eaſter, or within one Moneth after, to appoint four, three, or two ſubſtantial Houſholders, according to the greatneſs of the Pariſh, to be joyned with the Churchwardens to look to the Poor of the Pariſh.

Stat. 43 Eliz. cap. 2. The major part of theſe Officers without the reſt may do any thing belonging to their Office, but they are to have the Allowance and Conſent of two Ju-

Justices of Peace (one of the *Quorum*) to every thing they do about their Office. And these Officers, or such of them as are not hindred by just excuse, (to be allowed by two Justices) are to meet monethly in the Church on Sunday after Evening Prayer, to consider of matters concerning their Office, and to use all possible diligence in their Office, on pain of 20*s.* for every such Default.

Dalt J. P. chap. 40. fol. 98. The Parents that are able to work, and may have work, are to find their Children by their Labour, and not the Parish; but if they be overcharged with Children, the Overseers are to help them, by putting out some of their Children Apprentices.

Stat. 43 *Eliz.* chap. 3. *Resolu. Judges*, 16, 17. The Father, Grandfather, and the Children and Grandchildren of every poor impotent person not able to work, (being of sufficient ability) shall relieve such poor persons in such manner as the Justices of the peace of that County where such sufficient person dwelleth, at their general Quarter Sessions shall Assess. And if such party refuse to abide the Order, they forfeit Twenty shillings for every

Month

Month to the *Poor* of the Pariſh; which forfeiture is to be levied by the Churchwardens and Overſeers, or one of them, by Warrant from two Juſtices (one of the *Quorum*) by diſtreſs and ſale of the offendors goods; and for want of Diſtreſs two ſuch Juſtices may commit the offendor to priſon, there to remain till the ſaid Forfeiture be paid.

But if a man marry a Grandmother that hath no Eſtate, the Grandfather-in-Law is not chargeable; but if ſhe have an Eſtate caufed without ſuch Marriage, or that comes after Marriage by deſcent or otherwiſe to her, here he may be charged; but he can be charged in no caſe longer than his Wife lives.

Baſtard-children are not within this Law, neither can the Juſtices do any thing herein againſt a man that lives out of their County.

Reſol. Judges, 15. No Poor may beg but in their own Pariſh, and there by Licenſe of the Overſeers of the peor; and they may not licenſe them to beg in the Highwayes there.

1 *Jac.* 7. No inhabitants may ſerve any Poor at their door but thoſe of their own Pariſh, that have Licenſe from the Over-

Overſeers of the Poor to beg, on pain of 10s. for every default.

Stat. 43 *Eliz.* 2 The Overſeers to make proviſion for a poor man that wants a houſe, (but not for a common Herdſman or Shepherd) with conſent of the Lord of the Manor by writing under his hand and ſeal, either by themſelves or with a Seſſions order, may erect a Cottage upon any part of the Waſte of the Manor, and lodge Inmates therein, notwithſtanding the Statute of 31 *El.* 7. but ſuch Cottage muſt not be any otherwiſe employed.

Stat. 43. *El.* ch. 2. All ſuch perſons married or unmarried, having no means to maintain them, uſe no ordinary and dayly Trade to get their living by, and ſuch perſons as can get no work, are to be ſet on work by the Overſeers; and any one Juſtice of peace may ſend to the Houſe of Correction or common Gaol ſuch as ſhall not employ themſelves to work, being appointed thereto by the Churchwardens and Overſeers of the poor.

Stat. 3 *Car.* 1. ch. 4. The Churchwardens and Overſeers of the poor, with the conſent of two or more Juſtices of the peace (one of the *Quorum*) may ſet up and uſe any Trade, Myſtery, or Occupation, for the ſet-

setting on work and better relief of the Poor of the Parish, Town or place where they are Overseers.

14 *Car.* 2. chap. 12. If a stranger come into a Parish, into any house under the yearly Rent of Ten pounds *per annum*, the Overseers may require sufficient security of him for the discharge of the Parish; and if he refuse, they may complain to the Justices of the peace within forty dayes after the parties coming to the Parish, and they may order him to give security, or otherwise remove him.

Dalt. J. P. chap. 40. fol. 94, 95. The Overseers are to take and put out Apprentices, such poor mens children as are brought up idly and loosely, or such as are a burden and charge to their Parish: and they must have regard to put them to such Masters as are of ability and honesty, that shall not provoke their Apprentices to run away by hard usage; nor suffer them to consume their time without learning their trade. And they are to put out their Children Apprentices while they are young and tractable, (so they be above seven years of age) for else by reason of their idle and base bringing up, they will hardly keep their service, or employ themselves to work.

7 *Jac.*

7 *Jac.* ch. 3. Theſe Apprentices are to be choſen out of the pooreſt ſort of Children whoſe parents are leaſt able to maintain them, and they muſt be above Seven, and under fifteen years of age when they are firſt bound.

43 *Eliz.* chap. 2. *Dalt.* ch. 31. fol. 83. The Overſeers are to have the conſent of two Juſtices of the peace in the putting out of ſuch Apprentices, and they may bind the Man-child till 24. years of age, and the Woman child till 21. or till ſhe be married which ſhall firſt happen: And theſe Apprentices may be bound to Weavers, Maſons, Dyers, Fullers, or any other Trade as well as to Husbandry or Houſwifery.

Reſol. Judges, 1633. *Queſt.* 1. The Apprentices may be put to any man whom the Overſeers and Juſtices ſhall think fit within the ſame Pariſh, or elſe-where in other Pariſhes within the ſame Hundred, either with or without money: But if the Child be young, and the party to whom they place it not very able, then they may give money if they pleaſe, as the party and they can agree.

Reſolu. Judges, *Q.* 4. All men that have or may have uſe for Servants, as Knights, Clergymen, Gentlemen, and Yeomen, a

well as Tradeſmen are bound to take Apprentices; yea, though wealthy men Table themſelves, or live ſo privately that they have no uſe for a Servant, yet they may be compelled to take them; or elſe to pay a ſumm of money for putting them Apprentices elſe-where; and if they refuſe to pay the ſum impoſed upon them, two Juſtices of the peace may make their Warrant to levy the ſame by diſtreſs and ſale of the offenders goods.

Or the refuſers to take Apprentices may be preſented and indicted for the ſame, upon the Statute of 43 *Eliz.* ch. 2.

Reſol. Judges, Queſt. 2. An Apprentice put to a man in reſpect of his Farm, when his Leaſe expireth the Apprentice ſhall go ſtill with the Farm, if the firſt Maſter be ſo pleaſed; otherwiſe it is where an Apprentice is put to a man in reſpect of his abilities, or for other reſpects. And where any differences are between the Officers and the man that is to receive an Apprentice, about money, and what money ſhall be given, or otherwiſe; the Juſtices thereabouts, or in their defaults the Seſſions muſt determine it.

Dalt J. P. ch. 40. & 31. fo. 96. & 78.

If the parents of poor Children ſhall refuſe

to let their Children be put out Apprentices (without good cauſe ſhewed) ſuch Parents may be bound over by the Juſtices, to anſwer their ſaid defaults; And if the Children ſhall refuſe, the Juſtices may ſend them to the Houſe of Correction, there to remain till they be content to be Bound and ſerve.

Dalt. J. P. ch. 31. fo. 82. Theſe Apprentices muſt be bound by Indenture, and not by any verbal Agreement; and the Indenture muſt be either between the Juſtices, Churchwardens, and Overſeers, or ſome of them, and the Apprentice on the one part; and him that takes the Apprentice on the other part. And he muſt be named by the name of an *Apprentice* expreſly, or elſe he is no Apprentice though he be bound.

The Form of an Indenture for a Poor Child put out by the Pariſh.

THis Indenture made the 25th. day of M. *&c.* Witneſſeth, *That* R.H. *and* R.W. *Overſeers for the Poor in the Pariſh of* H. *in the County of* S. *and* H.T. *Churchwarden of the ſame Pariſh; by and with the conſent of* A.H. *Knight and Baronet, and* F.T. *Eſquire, two of His Majeſties Juſtices of the Peace of the ſame County; have by theſe preſents placed*

and

and bound J. G. *(being a Poor Fatherless Child) as an Apprentice with* E.B. *of* H. *Widow, and as an Apprentice with her the said* E.B. *to dwell from the day of the Date of these presents, untill she the said* J. G. *shall come to the age of 21 years, or be married, which shall first happen, according to the Statute in that case made and provided; by and during all such time and term the said* J.G. *shall the said* E.B. *her Dame well and faithfully serve in all such lawful business as the said* E.B. *shall put her the said* J.G. *unto, according to her power, wit, and ability, and honestly and obediently in all things shall behave her self towards her said Dame, and Children, and all the rest of the Family of the said* E.B. *And the said* E.B. *for her part promiseth, covenanteth, and agreeth, That she the said* E.B. *the said* J.G. *in the art and skill of Housewifery, the best manner that she can or may shall teach and inform, or cause to be taught and informed, as much as thereunto belongeth, and she the said* E. B. *knoweth. And also during all the said term to find and allow unto her said Apprentice Meat, Drink, Linen, Woollen, Hose, Shoos, Washing, Lodging, and all other things fitting or meet for an Apprentice.* In witness whereof, &c.

Stat. 1 *Jac. ch.* 25. 21 *Jac. ch.* 28. This Binding is as effectual to all purpoſes as if the Children were of Full age, and did bind themſelves by Indentures and Covenants; and all ſuch as are bound by the Overſeers as aboveſaid, may ſafely be received and kept as Apprentices by their Maſters.

Stat. 7 *Jac. ch.* 3. Such Money as is given to put out poor Children Apprentices, is to be imployed in Gorporate Towns by the Corporations, and in other places by the Parſon and Vicar, with the Conſtables, Churchwardens or Overſeers of the Poor, or the moſt part of them; who ſhall imploy the ſame accordingly on pain to forfeit 5 Marks each of them ſo making default, to be divided betwixt the Poor of the Pariſh and the Proſecutor.

Stat. idem. The party taking any Money with ſuch Apprencice ſhall give good Security by Obligation to repay it again at the end of 7 years next enſuing the date of the ſaid Obligation, or within 3 moneths next after the end of the ſaid 7 years: and if ſuch Apprentice ſhall die within 7 years, then within one year after his or her death; and if the Maſter, Miſtreſs, or Dame happen to die within 7 years, then within one year after their death: ſo as the Money may be imploy-

ed

ed in placing the Apprentice with ſome other of the ſame trade to ſerve out his time.

Stat. idem. Money ſo given ſhall be imployed within 3 Moneths after the Receipt thereof. And if there ſhall not be apt perſons found in the places where it is given, to be Apprentices, it ſhall then be imployed in the Pariſhes next adjoyning by the parties that are truſted with it in the place where it was ſo given, and there alſo Bond ſhall be taken.

Reſol. Judges. If a Woman unmarried be hired weekly, monethly, half-yearly, or yearly, in one Pariſh, and there be begotten with child, and then goeth into another Pariſh, and there is ſettled in Service, or otherwiſe for 2 or 3 Moneths, and then ſhe is diſcovered to be with child; in this caſe ſhe and her Child ſhall be ſettled in the Pariſh where ſhe then is, and muſt not be ſent to the Pariſh from whence ſhe came.

Reſol. Judges. If a Woman be delivered of a Baſtard child in one Pariſh, and then go into another Pariſh with her Child, in this caſe the Child after it is nurſed is to be ſent to and ſetled in the place where it was born, and not to remain with the Mother.

Stat. 43 *Eliz.* ch. 2. Theſe Officers or the greater part of them (for performing their office) may raiſe weekly or otherwiſe by

Taxation of every Parſon, Vicar, and other Occupier of Land, Houſe, or Tythes, Colemines, or ſaleable Underwoods, within the Pariſh, Town, &c. ſuch a Summ as they ſhall think fit. And this Rate they muſt have allowed and confirmed under the Hands of two Juſtices, (one of the *Quorum*;) and by Warrant from them or any two Juſtices they may levy the ſaid Tax by Diſtreſs and Sale of the Goods of the party refuſing to pay, rendring the Overplus to the Owners: and in default of Diſtreſs two ſuch Juſtices may commit the party to priſon, there to remain without Bail till he pay it.

Theſe Rates ought to be well and truly made according to mens Viſible Eſtates, Real and Perſonal, within the place onely, and not for any Eſtate elſewhere.

Theſe Rates muſt be ſet upon the Tenants and Occupiers of Lands, and not upon the Landlords, living within or without the Pariſh; for the Tenant onely is chargeable for the Land.

Reſolu. Judges. The Parſon having a full Tenth part of the Profits of the place, may be rated to a Tenth part.

The Rate or Stock for grounds is thought reaſonable to be ſet after the proportion of Lands, *viz.* 100 *l.* in Stock to be rated after 5 or 6 *l. per an.* in Lands.

If

If any perſons find themſelves agrieved in any Tax or other Act done by the Overſeers, or by the Juſtices of Peace, they are to ſeek for relief at the Quarter Seſſions.

Stat. 22 & 23 *Car.*2. *cap.*25. *clauſe* 4. No perſon or perſons ſhall kill or take in the night time, any Conies upon the borders of any Warrens or other Grounds, lawfully uſed for the breeding or keeping of Conies, (except ſuch as ſhall be Owner of the Soil, or lawful Occupier or Poſſeſſor of the Ground, or any perſons imployed by him, her or them, whereon ſuch Conies ſhall be ſo killed or taken) upon pain that every Offender therein, lawfully convict, ſhall give the party or parties injured ſuch recompence or ſatisfaction for his or their Damages, and within ſuch time as ſhall be appointed by the Juſtice before whom ſuch Offender ſhall be convicted: and over and above pay down preſently to the Overſeers for the uſe of the Poor of the Pariſh, where ſuch Offence ſhall be committed, ſuch Summ of Money (not exceeding 10 *s.*) as the ſaid Juſtice ſhall think meet. And if ſuch Offender or Offenders do not make recompence or ſatisfaction to the ſaid party or parties injured, and alſo pay the ſaid Summe to the Poor as aforeſaid, then the ſaid Juſtice

ſtice ſhall commit the ſaid Offender or Offenders to the Houſe of Correction, for ſuch time as the ſaid Juſtice ſhall think fit, not exceeding one Moneth.

Idem Stat. clauſ. 5. And every perſon that ſhall be found or apprehended ſetting or uſing any Snares, Hare-pipes, or other like Engines, and ſhall be thereof convicted in manner following, ſhall be liable to the Penalties in the immediate foregoing Clauſe of this Act, in manner as aforeſaid.

Idem Stat. clauſ. 6. If any perſon or perſons ſhall at any time uſe any Caſting Net, Thief Net, Drag Net, Tramel, Shove Net, or other Net whatſoever, or any Angle, Hair, Nooſe, Troll, or Spear; or ſhall lay any Wairs, Pots, Nets, Fiſh Hooks, or other Engines, or ſhall take any Fiſh by any other means or device whatſoever, in any River, Shew, Pond, Mote, or other Water, as, aforeſaid, or ſhall be aiding or aſſiſting thereunto, without the Licenſe or Conſent of the Lord or Owner of the ſaid Water; and be thereof, or of any other the Offences mentioned in this Act, convict by Confeſſion of the Offender, or by Oath of one ſufficient Witneſs, within one Moneth after the Offence committed, before any Juſtice of the Peace of ſuch County, Riding, Diviſion,

or

or Place, wherein such Offence as aforesaid shall be committed. Every Offender in stealing, taking, or killing Fish, shall for every such Offence give to the party or parties injured, such recompence or satisfaction for his or their Damages, an within such time as the said Justice shall appoint, not exceeding treble Damages; and over and above pay down presently unto the Overseers for the use of the Poor, where the said Offence shall be committed, such Summe of Money (not exceeding 10 *s.*) as the said Justice shall think meet. And in default of payment as aforesaid, the same to be levied by Distress and Sale of the Offenders Goods by Warrant under the Hand and Seal of such Justice, before whom the Offender shall be convicted, rendring the Overplus if any be. And for want of Distress the Offender or Offenders shall be committed to the House of Correction for such time as the Justice shall think fit, not exceeding one Moneth, unless the party offending shall enter into Bond with one or more competent Surety or Sureties to the party injured (not exceeding 10 *l.*) never to offend in like manner.

By the Statute of 22 & 23 *Car.* 2. *cap.* 12. the Statute of *Car.* 2. (ascertaining

the Meaſures of Salt and Corn) is recited, and a further Penalty added, *viz.* That whoſoever ſhall after the 25th. of *March*, 1671. ſell or buy any Corn or Salt by the Bag, or without meaſuring being thereunto required, or in any other manner than as by the ſaid Act is directed, and without ſhaking the Buſhel by the Buyer, ſhall forfeit the ſaid Corn, Grain, or Salt, or the value thereof, to the perſon or perſons complaining.

And that ſuch Seals may not be made privately to avoid publick Market, and the intention of the ſaid Act; upon complaint to one or more Juſtices of the Peace, the Proof ſhall be upon the Defendent, to make it appear by the Oaths of one or more credible Witneſſes, that he or they did ſell or buy the ſame according to this and the ſaid former Act. And in caſe he fail of ſuch Proof, the ſaid Forfeitures to be levied by Diſtreſs and Sale of the Goods of the Offender, (reſtoring the Overplus) by Warrant under the Hand and Seal of ſuch Juſtice before whom they ſhall be convicted. The Penalty ſo levied to be diſtributed, one half to the Poor of the Pariſh where the Offence ſhall be committed, and the other half to the Informer or Proſecutor.

THE

THE OFFICE OF THE Surveyors of High Ways and Bridges.

14 CAR. 2. *chap.* 6. The Churchwardens, Conſtables, or Tythingmen of every Pariſh, Town, or Hamlet, for the time being, are upon Monday or Tueſday in Eaſter Week, with the advice of the major part of the Inhabitants, to chuſe two or more Inhabitants of the Pariſh, Town, or Hamlet, to be Surveyors of the High Ways for the Year following, and they are to give notice thereof in writing to the perſons choſen next Sunday after. And for default of ſuch Choice the Conſtables, Churchwar-

dens, and inhabitants of every Pariſh, town or Hamlet ſhall forfeit and loſe Five pounds.

After choyce made of theſe *Surveyors*, and notice given them, they are forthwith to take the Office upon them, on pain to forfeit Twenty ſhillings.

14 *Car.* 2. ch. 6. High ways muſt be ſufficiently amended at the charge of the whole Town; and it is not enough for the Inhabitants to do their full ſix dayes work yearly, except their Wayes be all well and ſufficiently repaired thereby; for if all their ſaid Wayes be not ſufficently amended, the whole Town may be indicted for it; and if ſix dayes work in the year will not ſerve to amend them, the Surveyors muſt appoint more dayes.

The owner of Lands, if he be not the occupier thereof, ought not to be charged towards the repair of the common High ways; but the Tenant who occupies the Land is to be charged therewith.

Dalt. J P. ch. 26. fol. 68. The Surveyors are to ſee that the pariſhioners do their work on the dayes appoynted, and that they obſerve theſe Rules, (*viz.*) every perſon having in his own occupation a Plough-Land in Tillage or in Paſture in the ſame Pariſh, or keeping there a Plough or Draught, ſhall find

find and ſend on every day to the place appointed by the Surveyors, one Wain or Cart after the faſhion of the Country provided with Horſes, &c. fit for the Carriage, and with neceſſary Tools fit for the work; and with two able men, who are there to do ſuch work with their Wayns, *&c.* as they ſhall be appointed (by the Surveyors) by the ſpace of eight Hours every of the ſaid ſix dayes, on pain of Ten ſhillings every day default is made.

Stat. 2 *&* 3 *P. & M.* ch. 8. Every other Houſholder, Cottager and Labourer of the Pariſh, Town, &c. (able to labour, and being no hired ſervant by the year) muſt by himſelf or ſome other able man, be then and there ready to work every of the ſaid ſix days by the ſpace of eight hours, as aforeſaid; where they ſhall be appointed by the Surveyours, on pain to forfeit Twelve Pence for every day they make default.

18 *Eliz. ch.* 9. All perſons being chargeable but as Cottagers by the 2 & 3 *P. & M.* yet if they be in Subſidy 5 *l.* in Goods, or 40 *s.* in Lands, or above, they muſt find two able men to work every of the ſaid ſix days.

2 & 3 *P. & M. chap.* 8. If any of the Carriages ſhall not be thought needful by the ſaid Surveyors upon any of the ſaid days, they may appoint inſtead of a Team two able men to work as aforeſaid, who ſhall not fail, in pain that the party who ſhould ſend them ſhall forfeit 12 *d.* for every day that either of them makes default.

18 *Eliz. cap.* 9. He that ſhall occupy a Plough Land in Tillage or in Paſture, lying in ſeveral Pariſhes, ſhall be chargeable only in the Pariſh where he dwelleth; and he that occupieth ſeveral Plough Lands in ſeveral Pariſhes, ſhall be charged in each Town or Pariſh where ſuch Land lieth, *viz.* to find in each Town or Pariſh one Cart furniſhed as aforeſaid, though he be no Inhabitant there.

Co. on Lit. f. 69. It is ſaid that a Plough Land is not always of one content, but ordinarily it is ſo much as one Plough may plough in one year; which is in ſome Countries more, and in ſome leſs, according to the heavineſs of the Soil.

Co. 4. *Rep. fol.* 37. *b.* & 9 *Rep. fol.* 124. A Plough Land or Carve Land may contain Houſe, Meadow, Paſture, and Wood; and if one have ſo much of this as will keep a Plough

Plough, and yield Tillage for it, if part of it were eared, in this caſe it ſeems he is to ſend his Plough.

Dalt. J.P. *ch.* 26. *f.* 72. He that keepeth a Plough or Draught for Carriage, although he occupy little or no Land, but carrieth or plougheth for other men, yet it ſeems he is to ſend his Cart to the High Ways: and if a man keep onely two Horſes and a Cart for his own buſineſs, he is to come with his Cart and two Horſes with a man to drive them.

14 *Car.* 2. *cap.* 6. If ſix days will not ſerve for repairing of the High Ways, the Surveyors may appoint more, and charge all perſons within their Limits who are chargeable by the Law to come to the Work: but the Surveyors are to pay them for their Work for all the days above ſix, according to the Rates of the Country; and if they cannot agree, the next Juſtice of the Peace living out of the Pariſh is to determine the buſineſs between them.

5 *Eliz. cap.* 13. The Surveyors (if they ſee cauſe for the Amendment of the High Ways) may take and carry away ſo much of the Rubbiſh and ſmalleſt broken Stones of any mans Quarry lying within the ſame Pariſh without leave of the Owner, as they ſha-

ſhall think needful; or gather the looſe ſtones lying diſperſed in any mans grounds. But they may not without Licenſe dig in any mans Quarry for new ſtones, nor take the great ſtones already digged. And if there be no ſuch Rubbiſh to be found in any mans Quarry within the ſaid Pariſh, then they may enter into any mans ſeveral ground within the ſaid Pariſh, lying near the place where the Ways are decayed, and there (if they ſee any hopes of finding Materials fit for the Reparation thereof) without leave of the Owner they may dig for Sand, Stones, Gravel, &c. ſo that it be not in the Houſes, Orchards, Gardens, or Meadows of any man; they are not to come there without Licenſe of the Owner. And in ſuch place where they may dig without leave, they are not to make a Pit above 10 Yards in breadth or length; and they are to take care that the place be filled up again at the charge of the Pariſh within one Moneth after, upon pain to forfeit 5 Marks to the Owner of the Ground, to be recovered by Action of Debt.

14 *Car.2.ch.6.* The ſame Power is granted to Surveyours to dig for Gravel, Chalk, Sand, Stones, &c. in any mans Ground in the Pariſh next adjoyning to the place where the

the Ways are in decay, if there be not ſufficient in the ſame Pariſh. Provided it be not in the Houſe, Garden, Orchard, Court, Yard, Park with Deer in it, or in the Meadow of ſuch party, without paying any thing for the ſame Gravel, &c. onely Damages to the party for the carrying the ſame over his Graſs, &c. filling up the Pits, as is before mentioned, (5 *Eliz.*) within the ſame time, and under the ſame Penalty.

Stat. 5 *Eliz. ch.* 13. 8 *Eliz. ch.* 10. If the Owners of the Grounds next adjoyning to the High Ways do not keep their Hedges low, and cut down their Trees and Buſhes growing on the ſame Ways, they forfeit 10 *s.*

And he that ſcowres not his Ditches in the Ground next adjoyning to the Ground that is next the High Way, that the Water may paſs the better out of the High Way, ſhall forfeit 12 *d.* for every Rod ſo left unſcowred.

Stat. 18 *Eliz. chap.* 10. If any ſcowre his Ditch by the High Ways ſide, and throw the Soil thereof into the High Way, and ſuffer it to lie there 6 Moneths, he forfeits for every Load thereof 12 *d.* And the Surveyors are to make Sluces where ſuch Banks have

have been heretofore made, for carrying away the water out of the High Way.

Dalt. J. P. *chap.* 26. *fol.* 70. Every Surveyor may cauſe any Watercourſe or Spring of Water (being in the High Way within their Pariſh) to be turned into another mans ſeveral Ditch or Ground next adjoyning to the ſaid Way, in ſuch manner as by the diſcretion of the Surveyors ſhall be thought meet.

Stat. 18 *Eliz. cap.* 10. *Wingate Abr. Stat. tit. High Ways.* The Forfeitures of the Act of 18 *Eliz.* 10. muſt be levied by the Surveyors for the time being, (by Warrant from the Juſtice before whom the party ſhall be convict) by Diſtreſs and Sale of Goods; which Forfeitures are to be imployed towards the Amendment of the High Ways. And if the Surveyors neglect to do it within one Year after the Offence committed, then the Conſtables and Churchwardens by like Warrant may do it.

Dalt. J.P. *cap.* 26. *f.* 70. *Stat.* 5 *Eliz. cap.* 13. The Surveyors or one of them are to preſent to the next Juſtice of Peace every default upon the 2*d.* & 3*d. P.* & *M. cap.* 8. & 5 *Eliz. cap.* 13. within one Moneth after it ſhall he made, on pain of 40 *s.* and the Juſtice

ſtice is in pain of 5 *l.* to certifie the ſame at the next Quarter Seſſions; where the Juſtices are to enquire of the Default, and ſet ſuch Fine upon the Offenders as they or two of them (one of the *Quorum*) ſhall think fit.

5 *Eliz.* 13. *Raſtal.* 199. The Preſentment of a Juſtice of Peace in Seſſions upon his own Knowledge ſhall be a good Conviction; upon which the Juſtices in Seſſions, or two of them, (one of the *Quorum*) may aſſeſs a Fine as well as upon a Verdict: but the Offender ſhall be admitted to his Traverſe.

Stat. 2 & 3 *P. & M. cap.* 8. 5 *Eliz. cap.* 13. 18 *Eliz. cap.* 10. The Offences upon theſe Statutes are inquirable by Juſtices of the Peace in their Seſſions, and Stewards in Leets; either of which have power to aſſeſs Fines at their diſcretions upon Defaulters, (of which Fines, indented Eſtreats in the Seſſions under the hand and ſeal of the Clerk of the Peace, in the Leet under the hand and ſeal of the Steward) ſhall be delivered within 6 weeks after *Michaelmaſs*; one part of the Eſtreats to the Bailiff or High Conſtable of the Liberty, and the other part to the Conſtables and Churchwardens of the Pariſh where the Offenders live.

Stat.

Stat. 2 & 3 *P. & M. chap.* 8. Theſe Eſtreats ſhall be a ſufficient Warrant for the Bailiff or chief Conſtable of the Liberty to levy the ſaid Fines by way of Diſtreſs: and if no Diſtreſs can be found, or the Party do not pay the Fine within Twenty days after the lawful Demand thereof, he or they ſhall forfeit double ſo much. All which Fines and Forfeitures are to be imployed towards the mending of the High Ways in the Pariſh where the Offences are committed.

Stat. 2 & 3 *P. & M.ch.* 8. The High Conſtable or Bailiff ſhall between the Firſt of *March* and Laſt of *April* yearly, give an Account to the Conſtables and Churchwardens, who have the other part of the Eſtreats of the Fines, of what Money they have received, on pain of 40 *s.* And the Conſtables and Churchwardens have power to call the High Conſtable or Bailiff before two or more Juſtices of the Peace, (one whereof to be of the *Quorum*) to give up his Account; who have power to commit him untill he have ſatisfied all the Arrearages by him received, ſave 8 *d.* in the Pound for his own Fee, and 12 *d.* in the Pound for the Clerk of the Peace, or Steward of the Leet. And Conſtables and Churchwardens have the ſame

same Power successively as their Predecessors.

14 *Car.* 2. *ch.* 6. Every Surveyor of the High Ways shall within one Moneth a er his Year is expired, yield up to the Inhabitants of the Parish, Town or Hamlet, at some Publick Meeting appointed by the Inhabitants, a perfect Account of all Moneys he hath received and paid within the Year by reason of his said Office, and of whom; what Summe, and to whom he hath paid the same; what Moneys are in arrear for Fines, Forfeitures, Penalties, &c. and if any Overplus be in his hands, he shall render the same to the next Surveyor for the use of the Parish, Town, or Hamlet, to be disbursed in and about the High Ways the Year following. And if the Surveyor shall not make such an Account and Payment, then two Justices near the Parish upon complaint may examine the business upon Oath, and upon default found in the Surveyor, they may commit him to the Gaol of the County, City, &c. there to remain untill he have made a true Account and Payment.

Stat. idem. All Justices of Assize, Oyer and Terminer, and Justices of Peace, are impowered to hear and determine all matters concerning Charitable Gifts for the amending

ing and keeping in repair any common High Ways, Pavements, Streets, &c. within their Commiſſion; and to make Orders for the due Imployment of ſuch Gifts, (except the Gift be made to the uſe of any College, Hall, Free School, or Hoſpital, who have proper Viſitors of their own) and to determine all Offences and Defects in Surveyors concerning the ſame. And in caſe any perſon be agrieved by ſuch Order, he may appeal to the Court of Chancery, as in caſe of a Decree made upon the Statute of *Charitable Uſes.*

Stat. idem. No Travelling Wain, Wagon, Cart, or Carriage, wherein any Goods, Burthens, or Wares ſhall be carried or drawn for hire, (other than ſuch Carts and Carriages as are employed about Husbandry and managing of Lands, and in carriyng of Hay, Straw, Corn unthreſhed, Coal, Chalk, Timber for ſhipping, materials for Building, Stones of all ſorts, or ſuch Ammunition or Artillery as ſhall be for His Majeſties ſervice) ſhall at any one time travel, be drawn or go in any publick or common High Way with above ſeven Beaſts, whereof ſix ſhall draw in pairs, nor with above eight Oxen, or ſix Oxen and two Horſes; nor ſhall at any time carry above 2000 Weight between

tween the First of *October* and the First of *May*, (except such particulars as aboveſaid) nor above 3000. weight between the First of *May* and the First of *October*; nor above five Quarters of Wheat, Meal, Meſline, Rye, Peaſe, Beans, Tares, nor above eight Quarters of Barley, Mault, or Oats: nor ſhall any Wagon, Wayn, or Carriage be imployed for the ſaid Uſes, the Wheels whereof are leſs in breadth than 4 inches in the Tyre, upon pain every Owner of ſuch Wagon, Wayn, or Carriage, Horſe, Beaſts, or Oxen, ſhall for every of the ſaid Offences forfeit 40 *s.* to be divided in three equal parts, one to the Surveyors of the High Ways where any of the Offences ſhall be committed, towards the Repairing of the High Ways of the Pariſh there, the other part to the Overſeers of the Poor of the Pariſh where the Offence is committed, for the Relief of the Poor there; and one other part to him that ſhall diſcover and proſecute for the ſaid Offences.

Theſe Penalties are to be levied by Diſtreſs of all or any the Horſes, Beaſts, or Oxen, and to be diſtributed as aforeſaid by the Conſtables, Surveyors of the High Ways, and Overſeers of the Poor of the Pariſh where the Offence is committed; and in caſe

caſe the Penalties be not paid within 3 days after Diſtreſs, then the ſame to be ſold, rendring the Overplus, the Charges of keeping and ſelling firſt deducted.

Statutes for repairing particular High Ways, viz.

Stat. 39 *Eliz. chap.* 19. For repairing the High Ways in the Wilde of *Suſſex*, *Surrey*, and *Kent*.

Stat. 37 *H.*8.*ch.*3. For *Huntington Lane* near to *Cheſter*.

Stat. 14 *H.*8.*ch.*6. and 26 *H.*8.*ch.*7. For laying out new High Ways in the Wilde of *Kent* and *Suſſex*.

Stat. 1 *M. par.*2.*ch.*5. For the Cawſey between *Dorcheſter* and *Sherborn*.

Stat. 18 *Eliz.ch.*10. For the Kings Ferry in *Kent*.

Statutes for particular Bridges.

Stat. 18 *H.*6.*ch.*28. For making of *Burford* and *Culhamford* Bridge.

Stat. 18 *Eliz. ch.* 17. and 27 *H.*7. *ch.*25. For the maintainance of *Rocheſter* Bridge.

Stat. 18 *Eliz.ch.*20. For the repair of the Bridges within a Mile of *Oxford*.

Stat.

Stat. 23 *Eliz. ch.* 11. For the maintenance of the Bridges over *Toffe* in *Wales*.

Stat. 39 *Eliz. ch.* 23. For making and repairing of *Newport* and *Carleton* Bridges over the River *Usk*.

Stat. 39 *Eliz. ch.* 24. For building and maintenance of a Bridge at *Wilton* upon *Wye* near *Ross* in *Herefordshire*.

Stat. 3 *Jac. ch.* 23. For making and repairing *Chepstow* Bridge.

Stat. 14 *Car.* 2. *ch.* 6. For building and repairing *Laycock* and *Rey* Bridges in *Wiltshire*, and *Stratford* Bridge in *Middlesex*.

By the same Act it is provided, That all Bridges shall have sufficient Walls or Posts, and Rails on each side thereof, four Foot high at the least; and that the same be from time to time sufficiently kept and repaired.

Pasch. 10 *E.* 3. 28, 29. *Coke* 2 *part Instit. fol.* 701. Bridges are to be repaired by the whole County by Common Right, if it be not known who ought to do the same otherwise.

Rolls Cases part 1. *fol.* 368. If a man erect a Mill for his own particular profit, and cut a new Course for the Water to come to it, and makes a new Bridge over the

ſame, and the Kings Subjects uſe to ride over the ſame as over a common Bridge, ſuch Bridge ought to be repaired by him who hath the Mill, and not by the County, becauſe he erected it for his own profit.

Coke 2 part Inſt. f. 700. If a man which holdeth 100 Acres of Land ought to repair a Bridge by tenure of the ſame, do alien 20 Acres thereof to one man, and 10 Acres to another man; in ſuch caſe every Owner or Occupier of ſuch Lands muſt be charged, proportionably for their ſaid Lands.

22 *H.8.ch.5. Coke 2 part Inſt. f.*702. *Dalt.* J.P. *ch.*13. *f.*41. If any Bridge be wholly in a City or other Town Corporate, the Inhabitants of the ſame City or Town Corporate muſt repair it. And where ſuch Bridge lies out of ſuch City or Corporate Town, the ſame muſt be made by the Inhabitants of the Shire or Riding within which the ſame Shire ſhall be. And if part of a Bridge be in one Shire or Riding, City or Corporate Town, and one part in another, then every of them ſhall be charged to make and repair ſuch part as ſhall lie and be within their own Limits.

Crompt. 186. *b.* 43 *Aſſ. Dalt.* J.P. *ch.*13. *f.*42. Such as are chargeable to repair a Bridge may enter upon any mans Land or Soyl

Soyl adjoyning, and lay their Stone, Lime, Timber, or other things neceſſary there for the repairing and amending thereof, and the Owner of the Lands ſhall have no Action therefore; for it is for the common profit. And the party that is chargeable to repair a Bridge, muſt alſo maintain the Way at each end thereof, (although the Soil be to another;) and if the ends be broken by the Watercourſe, he muſt follow the Watercourſe and mend the Way.

Stat. 22 *H.*8.*ch.*5. *Dalt.*J.P. *ch.*13.*f.*40. Where a Common Bridge in the Kings High Way is in decay, and that it cannot be proved or known, who, nor what Lands are chargeable to the repairing thereof, four Juſtices of the Peace (one of the *Quorum*) within the Shire or Riding wherein ſuch decayed Bridges be; and if they be in a City or Town Corporate, then four ſuch Juſtices of Peace there may within the limits of their ſeveral Commiſſions call before them the Conſtables, or two of the moſt honeſt Inhabitants of every Town and Pariſh within the Shire, Riding, City, or Town Corporate wherein ſuch Bridges or any parcel thereof ſhall happen to be; and the Juſtices (upon the appearance of the Conſtables or other Inhabitants, and with their aſſents)

may tax every Inhabitant in any ſuch City, Town, or Pariſh within their Limits to ſuch reaſonable Summe of Money, as by their diſcretions they ſhall think convenient, as well for the repairing of ſuch Bridge, as alſo for the making and repairing of the High Ways by the ſpace of 300 Foot next adjoyning to the ends of any ſuch Bridge.

Coke 2 part Inſt. fol. 704. This Taxation ought not to be made by the Juſtices without the conſent of the Conſtables or Inhabitants, nor by them without the Juſtices; and this Tax ought to be upon every Inhabitant in particular, and not to be ſet upon the Hundred, Pariſh, Town, &c. for then one or few might be diſtrained upon for the whole.

Stat. 22 *H.*8 *ch.*5. *Dalt.* J.P. *ch.*13. *f.*40. *Coke* 2 *part Inſt. f.* 701,702. Where a Franchiſe, City, or Borough is a County of it ſelf, and hath not four or more Juſtices of the Peace, (whereof one or more are of the *Quorum*) in this caſe no other Juſtices of the Peace of any Shire or County have any power to meddle there by this Act: but ſuch Decay muſt be amended by the Common Law, by ſuch Remedies as they were anciently before the Statute of 22 *H.*8. *ſupra.*

Coke 2 *part Inſt. f.*704. *Dalt.* J.P. *ch.* 18. *f.*40. The Juſtices of Peace (after the Taxation

tion is made) ſhall cauſe the Names and Summes of every particular perſon ſo taxed to be written in a Roll indented in Parchment for every Hundred, and ſealed with their Seals.

Coke part idem f. 705. *Dalt.* J. P. *ch. & fol. idem.* 22 *H.* 8. *ch.* 5. The Juſtices may make two Collectors of every Hundred to gather the Money ſo taxed; which ſaid Collectors having received one part of the Roll thereof indented, have power to gather all the Money therein mentioned: and if Refuſal be made upon demand, then to diſtrain and ſell ſuch diſtreſs, rendring the Overplus to the Owner, if any be.

Stat. 22 *H.* 8. *ch. idem. Dalt. ch. & fol. ead.* The Juſtices are likewiſe to appoint two Surveyors, who (from time to time as often as need ſhall require) ſhall ſee ſuch decayed Bridges and Ways repaired and amended, to whoſe Hands the Collectors muſt pay the Money by them received.

Stat. *idem. Dalt. idem.* The Collectors and Surveyors, and their Executors and Adminiſtrators, and every of them, ſhall from time to time make a true Account to the ſaid Juſtices of Peace, of the Receipts, Payments, and Expences of the ſaid Summs of Money: and if any of them refuſe ſo to do,

then the ſaid Juſtices of Peace from time to time at their diſcretions may make out Proceſs againſt the ſaid Collectors and Surveyors, their Executors and Adminiſtrators, by Attachment, Precept or Warrant under their Hands and Seals, returnable at their General Seſſions of the Peace; and the ſaid Juſtices may allow ſuch reaſonable Coſts and Charges to the ſaid Surveyors and Collectors upon their Account, as to them ſhall ſeem meet.

THE

THE

OFFICE

Of the Diſtributors of the Proviſion for the Deſtruction of Noiſom Fowl and Vermin.

STat. 8 *Eliz. ch.* 15. & 14 *Eliz. ch.* 11. In every Pariſh the Churchwardens with ſix other Pariſhioners (to be required by the Churchwardens) ſhall yearly in one of the Holy Days in *Eaſter* Week, and at every other time when it ſhall be needful, tax and aſſeſs every perſon having the poſſeſſion of any Lands or Tythes within that Pariſh, to pay ſuch Summes of Money as they ſhall think meet, according to the quantity of ſuch their Lands or Tythes: and if any perſon do deny to pay the ſame, or do not pay the ſame within 14 days after requeſt made by the Churchwardens or one of them, then ſuch perſon ſhall forfeit for every time 5 *s.* which (together with the Summe aſſeſſed) ſhall be levied by diſtreſs of the Goods and Chattels

of

of ſuch perſon, to be taken by the Churchwardens, or one of them; the ſame diſtreſs to be ordered and uſed as diſtreſſes taken for Amerciaments in any Leet. And as well the ſaid Summes as Penalties (if any of them be ſo levied) ſhall be yearly by the ſaid Churchwardens or one of them for the time being, delivered by Bills indented to two honeſt and ſubſtantial Perſons of the ſaid Pariſh, which ſhall be elected and appointed by the Churchwardens, and ſhall be named, *The Diſtributors of the Proviſion for the deſtruction of Noiſom Fowl and Vermin.*

And if the ſaid Churchwardens, ſix perſons or Diſtributors, or any of them, ſhall refuſe or make default in the execution of any part of this Act, contrary to the Form thereof, then ſuch Offender ſhall forfeit for every default 5 *l.* the one moiety to the King, the other to him or them (uſing Tillage yearly within the ſame Shire) that will ſue for the ſame in any Court of Record.

The Reward of thoſe who deſtroy the ſaid Noiſom Fowl and Vermin, *viz.*

THeſe Diſtributors being ſo choſen, and having Money, ſhall give and pay of the ſame Money ſo to them delivered, to every perſon that

that ſhall bring to them any Heads of Old Crows, Pyes, or Rooks, taken within the ſeveral Pariſhes, for the Heads of every three of them, 1 d.

For the Heads of every ſix Young Crows, Choughs, Pies, or Rooks, 1 d.

For every ſix Eggs of any of them, 1 d.

For every 12 *Stares Heads,* 1 d.

For every Head of Merton, Hawk, Furſe Kite, Mould Kite, Buzzard, Shag, Cormorant, or Ringtail, 2 d.

And for every two Eggs of them, 1 d.

For every Iron or Oſprays Head, 4 d.

For the Head of every Woodwal, Pye, Jay, Raven, or Kite, 1 d.

For the Head of every Bird called the Kings Fiſher, 1 d.

For the Head of every Bulfinch or other Bird that devoureth the Bud of Fruit Trees, 1 d.

For the Head of every Fox or Gray, 12 d.

For the Head of every Fitchew, Polcat, Weaſel, Stoat, Fair, Badge, or Wilde Cat, 1 d.

For the Head of every Otter or Hedghog, 2 d.

For the Heads of every 3 *Rats or* 12 *Mice,* 1 d.

For the Heads of every Moldwarp or Want, 1 ob.

For

For the Heads of every which Birds and Vermin the ſaid Diſtributors ſhall give and pay to the Bringer of them as before is limited.

And if upon any account to be made in the end and Determination of the Office of any ſuch Diſtributors any Mony be remaining in their Hands, it ſhall be by Bill indented delivered to thoſe that ſhall ſucceed them in the ſaid Office, to be by them diſtributed in manner aforeſaid.

This gives no Authority to uſe any Engine for the deſtruction of the before mentioned Birds and Vermin, which ſhall diſturb or deſtroy the building or breeding of Hawks, Herons, or Swans; or to the hurt of any Doves or Deer, or Coney Warren: neither ſhall any thing be given to any perſon for the Head of any ſuch Vermin or Fowl taken in any Park or Warren, nor for Stares taken in Dove Houſes, nor to the killing or bringing of the Head of any Kite or Raven killed in any City or Town Corporate, or within two Miles of the ſame.

FINIS.